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 Wells Fargo Bank, National Association, as Indenture Trustee

12 **UNITED STATES BANKRUPTCY COURT**
 13 **EASTERN DISTRICT OF CALIFORNIA**
 14 **SACRAMENTO DIVISION**

15 In re:
 16 CITY OF STOCKTON, CALIFORNIA,
 17
 18 Debtor.

Case No. 12-32118
 DC No. OHS-7
 Chapter 9

19 **DECLARATION OF LUCINDA**
HRUSKA-CLAEYS IN SUPPORT OF
 20 **CITY OF STOCKTON'S MOTION**
UNDER BANKRUPTCY RULE 9019
 21 **FOR APPROVAL OF ITS**
SETTLEMENT WITH AMBAC
 22 **ASSURANCE CORPORATION**

23 Date: April 2, 2013
 Time: 9:30 a.m.
 24 Place: United States Courthouse
 Courtroom 35
 25 501 I Street
 Sacramento, CA 95814
 26 Judge: Christopher M. Klein
 27

1 I, Lucinda Hruska-Claeys, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as
2 follows:

3 1. I am Vice President at Wells Fargo Bank, National Association, in its Corporate
4 Trust Services – Special Accounts department (“Wells Fargo”). Wells Fargo is the indenture
5 trustee (the “Trustee”) of those certain City of Stockton Certificates of Participation,
6 (Redevelopment Housing Projects) Series 2003A and City of Stockton Certificates of
7 Participation, (Redevelopment Housing Projects) Taxable Series 2003B (the “Certificates”).

8 2. In my capacity as Vice President at Wells Fargo, I have personal knowledge of and
9 am familiar with the Certificates and the matters stated herein, including that certain Stipulation
10 and Settlement Agreement (the “Settlement Agreement”),¹ by and among the City of Stockton (the
11 “City”), Ambac Assurance Corporation (“Ambac” or the “Insurer”), the Trustee, and the Stockton
12 Public Financing Authority (the “Authority”; together with the City, Ambac and the Trustee, the
13 “Parties”), dated as of February 26, 2013, and I am authorized to submit this Declaration on behalf
14 of the Trustee.

15 3. I submit this Declaration with respect to the City of Stockton’s Motion Under
16 Bankruptcy Rule 9019 for Approval of its Settlement with Ambac Assurance Corporation (the
17 “Motion”). The Motion seeks approval by this Court of the Settlement Agreement and the
18 Trustee’s entry into the Settlement Agreement. I am familiar with the terms and provisions of the
19 Settlement Agreement. If called upon, I would testify competently to the facts set forth in this
20 Declaration.
21
22

23 **The Certificates.**

24 4. The Certificates were issued pursuant to that certain Trust Agreement among the
25 City, the Authority and the Trustee, dated as of June 1, 2003 (the “Trust Agreement”). A true and
26

27 _____
28 ¹ Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement.

1 complete copy of the Trust Agreement is attached hereto as Exhibit A. The Certificates (Series
2 2003A in the original amount of \$1,160,000 and Series 2003B in the original amount of
3 \$12,140,000) represent direct, undivided fractional interests of the owners thereof in lease
4 payments made by the City under the Lease Agreement dated as of June 1, 2003 (the "Lease") for
5 the use and occupancy of certain fire and police stations as well as a library. These buildings were
6 leased by the City to the Authority and then leased back to the City pursuant to the Lease.

7
8 5. The Authority assigned its interest under the Lease to the Trustee pursuant to an
9 Assignment Agreement dated as of June 1, 2003 (the "Assignment Agreement").

10 6. The City's payments under the Lease are paid directly to the Trustee for the benefit
11 of the holders of the Certificates and the Lease Payments are a general fund obligation of the City.

12 See Lease §3.4.

13 **The Insurance Policy.**

14 7. Ambac provided a financial guaranty policy (the "Insurance Policy") insuring the
15 Certificates to fund affordable housing projects in the City. I am informed and believe that Ambac
16 expects that claims will be presented to and paid by it under the Insurance Policy and those claims
17 will be timely paid by the Insurer and as a result, holders of the Certificates will receive their full
18 contractual principal and interest when due. Because of the payments by the Insurer, the Insurer
19 will have subrogation claims against the City on behalf of such holders of Certificates and, as a
20 result, the Insurer is a creditor in this case. See Insurance Policy Number 21154BE.

21
22
23 **The City's Chapter 9 Filing and its Default**

24 8. The City is in default under the Lease pursuant to Sections 8.1(b) and (d) of the
25 Lease. Pursuant to Section 12.09 of the Trust Agreement, so long as the Insurer is not in default
26 under its Insurance Policy, the Insurer is entitled to control and direct the enforcement of all rights
27 and remedies granted to the owners of the Certificates and the Trustee under the Trust Agreement
28

1 and pursuant to Section 13.13 of the Trust Agreement, following an Event of Default, and the
2 Insurer is deemed the owner of all Certificates for certain purposes under the Trust Agreement.

3 **The Settlement Agreement.**
4

5 9. In light of the foregoing, the Parties, including the Trustee at the direction of
6 Ambac, entered into the Settlement Agreement which, among other things, modifies the City's
7 obligations with respect to the Lease Payments. I understand that a condition precedent to the
8 effectiveness of the Settlement Agreement is an order approving the Settlement Agreement
9 becoming final and certain findings of the Bankruptcy Court with respect to the Trustee's entry
10 into the Settlement Agreement.
11

12 10. Contemporaneously with the filing of the Motion, the Trustee has provided notice
13 of the Settlement Agreement to the beneficial owners of the Certificates by posting the Notice of
14 Settlement and Procedures Concerning Court Approval of Settlement and Related Deadlines
15 attached hereto as Exhibit B (the "Holder Notice") with the Depository Trust Company, as
16 registered owner of the Certificates, Bloomberg and with the Electronic Municipal Market Access
17 service ("EMMA"), as maintained by the Municipal Securities Rulemaking Board and found at
18 <http://www.emma.msrb.org/>, which is an official source for municipal disclosure and market data.
19 The Holder Notice includes copies of the Settlement Agreement, the Motion, and the Approval
20 Order and outlines procedures for beneficial owners of the Certificates to object to the Settlement
21 Agreement.
22

23 11. The Trust Agreement provides at Sections 12.09 and 13.13 that as long as Ambac is
24 not in default under the terms of the Insurance Policy, Ambac is entitled to direct the Trustee to
25 enter into the Settlement Agreement. Pursuant to the terms of the Trust Agreement, Ambac
26 directed the Trustee to enter into the Settlement Agreement. As Ambac is not in default under the
27
28

1 Insurance Policy as of the date hereof, the Trustee is required pursuant to the terms of the Trust
2 Agreement to enter into the Settlement Agreement.

3 12. The Trustee has discussed with the Ambac representatives who negotiated the
4 Settlement the terms of the Settlement Agreement and their analysis with respect thereto. Based
5 on our review of the Settlement Agreement and discussions with Ambac, nothing in the Settlement
6 Agreement should or is intended to impact the obligations of Ambac under the Insurance Policy to
7 insure the payment in full of the principal of and interest on Certificates when due and therefore,
8 owners of the Certificates should not be impacted by the Settlement Agreement. Additionally, I
9 have requested and received a form of opinion, which will be executed on the Effective Date, from
10 the City's counsel which provides that the Settlement Agreement will have no adverse effect on
11 any exclusion of the portion of the Lease Payment designated as and comprising interest and
12 received by the owners of the Certificates from gross income for federal income tax purposes,
13 which opinion is attached as Exhibit D to the Settlement Agreement.

14
15 13. As a result of the foregoing, it is my conclusion that Wells Fargo Bank, National
16 Association as Trustee has due authority to enter into the Settlement Agreement and has acted
17 consistent with its duties and responsibilities under the terms of the Trust Agreement and has used
18 the same degree of care and skill in its exercise, as a prudent person would exercise or use under
19 the circumstances in the conduct of such person's own affairs and that Settlement Agreement is in
20 the best interests of the Certificate Holders.
21

22
23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed on February 26, 2013 at Minneapolis, Minnesota

25 
26 Lucinda Hruska-Claeys
27
28

Exhibit A

TRUST AGREEMENT

Dated as of June 1, 2003

by and among

**WELLS FARGO BANK, NATIONAL ASSOCIATION
as Trustee**

STOCKTON PUBLIC FINANCING AUTHORITY

and the

CITY OF STOCKTON

**Relating to
\$1,160,000
City of Stockton
Certificates of Participation
(Redevelopment Housing Projects)
Series 2003A**

and

**\$12,140,000
City of Stockton
Certificates of Participation
(Redevelopment Housing Projects)
Taxable Series 2003B**

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Exhibit A	Definitions
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TRUST AGREEMENT

This TRUST AGREEMENT (this "Trust Agreement"), dated as of June 1, 2003, is by and among WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as Trustee (the "Trustee"), the STOCKTON PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), and the CITY OF STOCKTON, a charter city and municipal corporation organized and existing under the constitution and laws of the State of California (the "City").

WITNESSETH:

WHEREAS, the City is proposing to assist the Redevelopment Agency of the City of Stockton (the "Agency") in undertaking various redevelopment housing projects (the "Project") of benefit to the Agency's several redevelopment project areas; and

WHEREAS, in order to provide funds for the Project, the City has agreed to lease the Leased Premises to the Authority as provided in the Site Lease, as defined herein, and has further agreed to sublease the Leased Premises back from the Authority pursuant to that certain Lease Agreement dated as of June 1, 2003, by and between the Authority as sublessor and the City as sublessee (the "Lease Agreement"); and

WHEREAS, the City proposes to assign and transfer certain of its rights under the Lease Agreement to the Trustee and, in consideration of such assignment and the execution of this Trust Agreement, the Trustee has agreed to execute and deliver City of Stockton Certificates of Participation (Redevelopment Housing Projects) Series 2003A in the aggregate principal amount of \$1,160,000 (the "Series 2003A Certificates") and City of Stockton Certificates of Participation (Redevelopment Housing Projects) Taxable Series 2003B in the aggregate principal amount of \$12,140,000 (the "Taxable Series 2003B Certificates" and, together with the Series 2003A Certificates, the "Certificates"), each evidencing a direct, undivided fractional interest in the lease payments to be paid by the City pursuant to the Lease Agreement; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION; AUTHORIZATION; EXHIBITS

SECTION 1.01. *Definitions.* The terms defined in Exhibit A attached hereto and by this reference incorporated herein, as used and capitalized herein, shall, for all purposes of this Trust Agreement, have the meanings ascribed to them in said Exhibit A, unless the context clearly requires some other meaning.

SECTION 1.02. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 1.03. *Authorization.* Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Trust Agreement, and has taken all actions necessary to authorize the execution of this Trust Agreement by the officers and persons signing it.

SECTION 1.04. *Exhibits.* The following Exhibits are attached to, and by reference made a part of, this Trust Agreement:

Exhibit A: Definitions.

Exhibit B: Form of Certificate of Participation

ARTICLE II

THE CERTIFICATES OF PARTICIPATION

SECTION 2.01. *Authorization.* The Trustee is hereby authorized and directed upon written request from the Authority to register, execute and deliver, to the Original Purchaser identified in such written request, the Series 2003A Certificates in an aggregate principal amount One Million One Hundred Sixty Thousand Dollars (\$1,160,000), and Taxable Series 2003B Certificates in an aggregate principal amount Twelve Million One Hundred Forty Thousand Dollars (\$12,140,000, both evidencing direct, undivided fractional interests of the Owners thereof in the Lease Payments.

SECTION 2.02. *Date; Payment of Interest.* Each Certificate shall be dated the date of delivery thereof, being June 27, 2003, and interest represented thereby shall be payable from the Interest Payment Date next preceding the date of execution thereof, unless: (i) it is executed as of an Interest Payment Date, in which event interest represented thereby shall be payable from such Interest Payment Date; or (ii) it is executed after a Record Date and before the following Interest Payment Date, in which event interest represented thereby shall be payable from such Interest Payment Date; or (iii) it is executed before the close of business on the first Record Date, in which event interest with respect thereto shall be payable from June 27, 2003; *provided, however,* that if, as of the date of execution of any Certificate, interest represented by such Certificate is in default or interest is in default with respect to any Outstanding Certificates, interest represented by such Certificate shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Certificates.

Section 2.03. *Terms of Certificates.* Principal represented by the Certificates shall be payable on September 1 in each of the respective years and in the respective amounts, and interest represented thereby shall be computed at the respective rates, as follows:

Series 2003A Certificates

<u>Maturity Date</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2011	\$35,000	3.000%
2012	35,000	3.250
2013	35,000	3.250
2014	35,000	3.500
2015	35,000	3.500
2016	40,000	3.600
2017	40,000	3.700
2018	40,000	3.800
2019	45,000	4.000
2020	45,000	4.000
2021	45,000	4.000
2022	50,000	4.125
2023	50,000	4.125
2027	220,000	4.250
2033	410,000	4.375

Taxable Series 2003B Certificates

<u>Maturity Date</u> <u>(September 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2017	\$2,385,000	4.520%
2023	2,765,000	5.180
2033	6,990,000	5.280

The Certificates shall be delivered in the form of fully registered Certificates without coupons in the authorized denominations of \$5,000 or any integral multiple thereof, except that no Certificate shall represent principal payable in more than one year. The Certificates shall be assigned such alphabetical and numerical designation as shall be deemed appropriate by the Trustee.

Section 2.04. *Payment of Certificates.* Interest represented by the Certificates shall be payable on each Interest Payment Date, and shall represent the portion of Lease Payments designated as interest and coming due on such Interest Payment Date pursuant to the Lease Agreement. The share of the portion of Lease Payments designated as interest with respect to any Certificate shall be computed by multiplying the portion of Lease Payments designated as principal represented by such Certificate by the rate of interest represented by such Certificate (calculated on the basis of a 360-day year of twelve 30-day months).

Interest represented by each Certificate shall be paid on each Interest Payment Date by check of the Trustee mailed on such Interest Payment Date by first class mail, postage prepaid, to the person appearing on the Registration Books as the Owner thereof as of the close of business on the preceding Record Date, at such Owner's address as it appears on the Registration Books; *provided, however,* that at the written request of the Owner of either Series 2003A Certificates or Taxable Series 2003B Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, interest represented by such Certificates shall be paid on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account within the United States of America as shall be specified in such written request.

The principal and prepayment price represented by any Certificate at maturity or upon prior prepayment shall be payable in lawful money of the United States of America upon presentation and surrender of such Certificate at the Office of the Trustee.

SECTION 2.05. *Form of Certificates.* The Certificates shall be substantially in the form set forth in Exhibit B attached hereto and by this reference incorporated herein. The Certificates shall be delivered in printed, lithographed or engraved form, subject to the provisions of Section 2.10.

SECTION 2.06. *Execution.* The Certificates shall be executed by and in the name of the Trustee by the manual signature of an authorized signatory of the Trustee. If any officer whose signature appears on any Certificate ceases to be such officer before the date of delivery of said Certificate, such signature shall nevertheless be as effective as if the signatory had remained in office until such date. Any Certificate may be executed on behalf of the Trustee by such person as at the actual date of the execution of such Certificate shall be the proper signatory of the Trustee.

SECTION 2.07. *Transfer and Exchange.*

(a) Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by his attorney duly authorized in writing upon surrender of such Certificate for cancellation at the Principal Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Certificate or Certificates shall be surrendered for registration of transfer, the Trustee shall execute and deliver a new Certificate or Certificates for like aggregate principal amount in authorized denominations. The Trustee may require the payment by the Certificate Owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer. The Trustee shall not be required to transfer any Certificate (i) during the period established for selection of Certificates for prepayment, or (ii) if such Certificates shall have been selected for prepayment.

(b) Exchange of Certificates. Certificates may be exchanged, upon surrender thereof, at the Principal Office of the Trustee for a like aggregate principal amount of Certificates of other authorized denominations of the same maturity. Whenever any Certificate or Certificates shall be surrendered for exchange, the Trustee shall execute and deliver a new Certificate or Certificates for like aggregate principal amount in authorized denominations. The Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The Trustee shall not be required to exchange (i) any Certificates during the period between the date five (5) days prior to the date of selection of Certificates for prepayment and such date of selection, (ii) any Certificates during the period established for selection of Certificates for prepayment, or (iii) if such Certificates shall have been selected for prepayment.

SECTION 2.08. *Certificates Mutilated, Lost, Destroyed or Stolen.* If any Certificate shall become mutilated, the Trustee, at the expense of the Owner of said Certificate, shall execute and deliver a new Certificate of like tenor, maturity and amount in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be canceled by it and destroyed in accordance with its retention policy then in effect, with a certificate of destruction furnished to the City. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft shall be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and if an indemnity satisfactory to it shall be given, the

Trustee, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like tenor, maturity and amount and numbered as the Trustee shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of the expenses which may be incurred by the Trustee in carrying out the duties under this Section 2.07. Any Certificate executed and delivered under the provisions of this Section 2.07 in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and fractionally entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section 2.07, in lieu of delivering a new Certificate in exchange for a Certificate which has been mutilated, lost, destroyed or stolen, and which has matured or has been called for prepayment, the Trustee may make payment with respect to such Certificate upon receipt of the aforementioned indemnity.

SECTION 2.09. *Execution of Documents and Proof of Ownership.* Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys' or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or his attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged before him the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of his authority.

(b) The fact of the ownership of Certificates by any person and the amount, the maturity and the numbers of such Certificates and the date of his holding the same shall be proved by the Registration Books.

Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or suffered to be done by the Trustee pursuant to such request or consent.

SECTION 2.10. *Registration Books.* The Trustee shall keep or cause to be kept, at its Principal Office, sufficient records for the registration and registration of transfer of the Certificates, which shall at all reasonable times be open to inspection by the City, and the Authority during regular business hours with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Certificates as hereinbefore provided. The City, the Authority, and the Trustee shall be entitled to treat the Owner of a Certificate as the absolute owner thereof for all purposes.

SECTION 2.11. *Use of Depository for Certificates.* Notwithstanding any provision of this Trust Agreement to the contrary:

(a) The Certificates shall be initially executed and delivered and registered in the name of "Cede & Co.," as nominee of The Depository Trust Company, the depository designated by the Original Purchaser, and shall be evidenced by one Certificate for each maturity of the certificates. Registered ownership of such Certificates, or any portions thereof, may not thereafter be transferred except:

(i) to any successor of The Depository Trust Company or its nominee, or of any substitute depository designated pursuant to paragraph (ii) of this subsection (a) ("substitute depository"); provided that any successor of The Depository Trust Company or substitute depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(ii) to any substitute depository designated in a written request of the City, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the City that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) to any person as provided below, upon (A) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository or (B) a determination by the City that The Depository Trust Company or its successor is no longer able to carry out its functions as depository; provided that no substitute depository which is not objected to by the City and the Trustee can be obtained.

(b) In the case of any transfer pursuant to paragraph (i) or paragraph (ii) of subsection (a) of this Section 2.10, upon receipt of all Outstanding Certificates by the Trustee, together with a written request of the City to the Trustee, a single new Certificate shall be executed and delivered for each maturity of such Certificate then outstanding, registered in the name of such successor or such substitute depository or their nominees, as the case may be, all as specified in such written request of the City. In the case of any transfer pursuant to paragraph (iii) of subsection (a) of this Section 2.10, upon receipt of all Outstanding Certificates by the Trustee together with a written request of the City, new Certificates shall be executed and delivered in such denominations and registered in the names of such persons as are requested in a written request of the City provided the Trustee shall not be required to deliver such new Certificates within a period less than sixty (60) days from the date of receipt of such a written request of the City.

(c) In the case of partial prepayment of any Certificates evidencing all of the principal maturing in a particular year, The Depository Trust Company shall deliver the Certificates to the Trustee for cancellation and re-registration to reflect the amounts of such reduction in principal.

(d) The City and the Trustee shall be entitled to treat the person in whose name any Certificate is registered as the absolute Owner thereof for all purposes of this Trust Agreement and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City; and the City and the Trustee shall have no responsibility for transmitting payments to, communication with, notifying or otherwise dealing with any beneficial owners of the

Certificates. Neither the City nor the Trustee will have any responsibility or obligations, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or substitute depository or its successor), except for the registered owner of any Certificate.

(e) So long as all Outstanding Certificates are registered in the name of Cede & Co. or its registered assign, (i) all payments of principal and interest represented by the Certificates shall be made in accordance with the letter of representations which is executed and delivered on the Closing Date among the City, the Trustee (if required by The Depository Trust Company) and The Depository Trust Company (the "Letter of Representations"), and (ii) the City and the Trustee shall reasonably cooperate with Cede & Co., as sole registered Owner, or its registered assign in effecting payment of the principal and prepayment premium, if any, and interest due with respect to the Certificates by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available on the date they are due. Upon any such payment to Cede & Co., or its registered assign, of principal or prepayment premium, if any, or interest due with respect to an Outstanding Certificate, all liability with respect to the amount so paid shall be satisfied.

(f) So long as all Outstanding Certificates are registered in the name of Cede & Co. or its registered assign (hereinafter, for purposes of this paragraph (f), the "Owner"):

(i) All notices and payments addressed to the Owners shall contain the Certificates' CUSIP number.

(ii) Notices to the Owner shall be forwarded in the manner and to the telephone numbers (in the case of notice by telecopy) and addresses as set forth in paragraphs 6 through 11 of the Letter of Representations or to such other telephone numbers and addresses designated by the Owner to the Trustee.

(iii) The Owner shall in writing provide the Trustee with examples of signatures of those authorized to act on its behalf, which shall be subject to change and the Trustee shall accept direction in writing from such persons or their designated successors on behalf of the registered Certificate.

(g) Reference is hereby made to the Letter of Representations for certain actions by the City and the Trustee under specified circumstances.

ARTICLE III

APPLICATION OF PROCEEDS; TRANSFER OF FUNDS; COSTS OF
ISSUANCE FUND

SECTION 3.01. *Application of Proceeds; Transfer of Funds.*

(a) The proceeds received by the Trustee from the sale of the Series 2003A Certificates in the aggregate amount of \$1,121,949.98, shall forthwith be set aside by the Trustee in the following respective funds and accounts:

(i) The Trustee shall deposit the amount of \$82,027.50 in the Series 2003A Account of the Reserve Fund;

(ii) The Trustee shall deposit the amount of \$16,048.22 in the Series 2003A Account of the Costs of Issuance Fund; and

(iii) The Trustee shall deposit the amount of \$1,023,874.26 in the Series 2003A Account of the Project Fund.

(b) The proceeds received by the Trustee from the sale of the Taxable Series 2003B Certificates in the aggregate amount of \$11,881,155.08, shall forthwith be set aside by the Trustee in the following respective funds and accounts:

(i) The Trustee shall deposit the amount of \$919,927 in the Taxable Series 2003B Account of the Reserve Fund;

(ii) The Trustee shall deposit the amount of \$146,424.04 in the Taxable Series 2003B Account of the Costs of Issuance Fund; and

(iii) The Trustee shall deposit the amount of \$10,814,804.04 in the Taxable Series 2003B Account of the Project Fund.

(c) The City and the Trustee acknowledge that the Original Purchaser paid the premium for the Insurance Policy, in the amount of \$198,458.04, directly to the Insurer.

SECTION 3.02. *Costs of Issuance Fund.* The Trustee shall establish a special fund designated as the "Costs of Issuance Fund," together with a "Series 2003A Account" and a "Taxable Series 2003B Account" therein; shall keep such fund and accounts separate and apart from all other funds and moneys held by it; and shall administer such fund and accounts as provided herein. There shall be deposited in the Costs of Issuance Fund the proceeds of sale of the Certificates required to be deposited therein pursuant to Sections 3.01(a)(ii) and 3.01(b)(ii) and any other funds from time to time deposited with the Trustee for such purpose and identified in writing to the Trustee.

Amounts on deposit in the Costs of Issuance Fund shall be disbursed by the Trustee to pay the Costs of Issuance, upon a receipt by the Trustee from time to time of a sequentially numbered requisition, with bills, invoices or statements attached, signed by a City Representative setting forth the amounts to be disbursed for payment or reimbursement of Costs of Issuance and the name and address of the person or persons to whom said amounts are to be disbursed, stating that the amounts to be disbursed are for Costs of Issuance properly chargeable to the Costs of Issuance Fund.

The Trustee shall be responsible for the safekeeping and investment (in accordance with Section 7.02) of the moneys held in the Costs of Issuance Fund and the payment thereof in accordance with this Section 3.02, but the Trustee shall not be responsible for such requisitions. The Trustee shall, however, be entitled to rely on the representations made in such requisitions without independent investigation.

Upon receipt by the Trustee of written notice from a City Representative stating that all Costs of Issuance have been paid, but in any event not later than December 1, 2003, the Trustee shall transfer any moneys then remaining in the Series 2003A Account of the Costs of Issuance Fund to the Series 2003A Account of the Project Fund and shall transfer any moneys then remaining in the Taxable Series 2003B Account of the Costs of Issuance Fund to the Taxable Series 2003B Account of the Project Fund, in each case to be applied as provided in Section 3.03. Thereupon, the Trustee shall close the Costs of Issuance Fund.

SECTION 3.03. *Project Fund.* The Trustee shall establish a special fund designated as the "Project Fund," together with a "Series 2003A Account" and a "Taxable Series 2003B Account" therein, shall keep such fund and accounts separate and apart from all other funds and moneys held by it; and shall administer such fund and accounts as provided herein. There shall be deposited in the Project Fund from the proceeds of sale of the Certificates the amount required to be deposited therein pursuant to Sections 3.01(a)(iii) and 3.01(b)(iii) hereof, together with any other amounts from time to time deposited with the Trustee for such purpose as may be identified in writing to the Trustee by a City Representative.

(a) Amounts in the Project Fund shall be disbursed for Project Costs by the Trustee upon receipt of a sequentially numbered requisition requesting disbursement executed by a City Representative. Each such requisition shall:

(i) set forth the amounts to be disbursed for payment or reimbursement of previous payments of Project Costs and the name and address of person or persons to whom said amounts are to be disbursed;

(ii) state that the amounts to be disbursed constitute Project Costs, that said amounts are required to be disbursed pursuant to a contract entered into therefor by or on behalf of the City, or were necessarily and reasonably incurred, and that said amounts are not being paid in advance of the time, if any, fixed for payment;

(iii) state that no amount set forth in the requisition was included in any requisition requesting disbursement previously filed with the Trustee pursuant to this Section 3.03(a);

(iv) state, in the case of disbursements with respect to the Series 2003A Account that there has been compliance relating to the private activity limitation and the private loan limitation; and

(vi) state the Account within the Project Fund from which such disbursement shall be made.

(b) The Trustee shall be responsible for the safekeeping and investment (in accordance with Section 7.02 hereof) of the moneys held in the Project Fund and the payment thereof in accordance with this Section 3.03, but the Trustee shall not be responsible for such requisitions and shall be under no duty to investigate or verify any statements made therein.

(c) The Trustee is hereby directed that all unexpended moneys remaining in the Project Fund and not identified in writing by a City Representative to be required for payment of Project Costs shall, on the Completion Date, be transferred to the Lease Payment Fund and applied to pay the Lease Payments as the same become due and payable, and the Project Fund shall be closed.

SECTION 3.04. *Reserve Fund.* The Trustee shall establish a special fund designated as the "Reserve Fund," together with a "Series 2003A Account" and a "Taxable Series 2003B Account" therein to be held by the Trustee in trust for the benefit of the City and the Owners of the Certificates, and applied solely as provided herein. Moneys in the Reserve Fund shall be held in trust as a reserve for the payment when due of the Lease Payments on behalf of the City. All amounts on deposit in the Reserve Fund in excess of the Reserve Requirement, and all amounts derived from the investment of amounts in the Reserve Fund which are not required to be retained therein to maintain the Reserve Requirement, shall be transferred by the Trustee to the Lease Payment Fund on or before each Interest Payment Date.

If on any Interest Payment Date the moneys in the Lease Payment Fund do not equal the amount of the Lease Payment then coming due and payable, the Trustee shall apply the moneys available in the Reserve Fund to make such payments on behalf of the City by transferring the amount necessary for this purpose to the Lease Payment Fund. In such case, amounts shall be drawn from each Account within the Reserve Fund on a proportionate basis; provided that amounts in the Series 2003A Account shall be used only to pay the principal and interest with respect to the Series 2003A Certificates. Upon receipt of any delinquent Lease Payment with respect to which moneys have been advanced from the Reserve Fund, such Lease Payment shall be deposited in the Reserve Fund to the extent of such advance.

If on any Interest Payment Date the moneys on deposit in the Reserve Fund and the Lease Payment Fund (excluding amounts required for payment of principal, interest and prepayment premium, if any, represented by any Certificates theretofore having come due but not presented for payment) are sufficient to pay or prepay all Outstanding Certificates, including all principal, interest and prepayment premiums (if any) represented thereby, the Trustee shall, upon the written request of a City Representative, transfer all amounts then on deposit in the Reserve Fund to the Lease Payment Fund to be applied for such purpose to the payment of the Lease Payments on behalf of the City. Any amounts remaining in the Reserve Fund on the date of payment in full, or provision for such payment as provided in Section 13.01, of all obligations represented by the Outstanding Certificates and upon all amounts then due and owing to the Trustee, shall be withdrawn by the Trustee and at the written request of the City applied towards such payment or paid to the City.

The City shall have the right at any time to cause the Trustee to release funds from the Reserve Fund, in whole or in part, by tendering to the Trustee: (1) a Qualified Reserve Fund Credit Instrument, and (2) an opinion of Special Counsel stating that such release will not, of itself, cause the portion of the Lease Payments designated as and comprising interest with respect to the Series 2003A Certificates to become includable in gross income for purposes of federal income taxation. Upon tender of such items to the Trustee, the Trustee shall transfer such funds from the Reserve Fund to the City. Prior to the expiration of any Qualified Reserve Fund Credit Instrument, or to the reduction of the rating of the provider thereof below the rating on the Certificates, the City shall be obligated either (a) to replace such Qualified Reserve Fund Credit Instrument with a new Qualified Reserve Fund Credit Instrument, or (b) to deposit or cause to be deposited with the Trustee an amount of funds such that the funds on deposit in the Reserve Fund together with all Qualified Reserve Fund Credit Instruments held by the Trustee are at least equal to the Reserve Requirement.

ARTICLE IV

PREPAYMENT OF CERTIFICATES

SECTION 4.01. *Prepayment.*

(a) *Optional Prepayment.* The Certificates maturing on or before September 1, 2013, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after September 1, 2014, are subject to optional prepayment in whole or in part, on any date on or after September 1, 2013, from prepayments of the Lease Payments made at the option of the City pursuant to Section 9.2 of the Lease, at a prepayment price equal to the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment.

(b) *Prepayment From Net Proceeds of Insurance or Eminent Domain.* The Certificates are also subject to mandatory prepayment on any date, in whole or in part, from the Net Proceeds of insurance or eminent domain proceedings credited towards the prepayment of the Lease Payments pursuant to Section 9.3 of the Lease, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

(c) *Sinking Fund Payment.* The Term Series 2003A Certificates maturing on September 1, 2027 and September 1, 2033, are also subject to mandatory sinking fund payment by lot on September 1 in each year beginning September 1, 2024 and September 1, 2028, respectively, from the principal components of the Lease Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

Term Series 2003A Certificates Maturing September 1, 2027

<u>Prepayment Date (September 1)</u>	<u>Principal Amount of Term Certificates To Be Paid</u>
2024	\$50,000
2025	55,000
2026	55,000
2027	60,000

Term Series 2003A Certificates Maturing September 1, 2033

<u>Prepayment Date (September 1)</u>	<u>Principal Amount of Term Certificates To Be Paid</u>
2028	\$60,000
2029	65,000
2030	65,000
2031	70,000
2032	75,000
2033	75,000

The Term Taxable Series 2003B Certificates maturing on September 1, 2017, September 1, 2023 and September 1, 2033, are also subject to mandatory sinking fund payment by lot on September 1 in each year beginning September 1, 2011, September 1, 2018 and September 1, 2024, respectively, from the principal components of the Lease Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

Term Taxable Series 2003B Certificates Maturing September 1, 2017

<u>Prepayment Date (September 1)</u>	<u>Principal Amount of Term Certificates To Be Paid</u>
2011	\$295,000
2012	310,000
2013	325,000
2014	340,000
2015	355,000
2016	370,000
2017	390,000

Term Taxable Series 2003B Certificates Maturing September 1, 2023

<u>Prepayment Date (September 1)</u>	<u>Principal Amount of Term Certificates To Be Paid</u>
2018	\$405,000
2019	425,000
2020	450,000
2021	470,000
2022	495,000
2023	520,000

Term Taxable Series 2003B Certificates Maturing September 1, 2033

<u>Prepayment Date (September 1)</u>	<u>Principal Amount of Term Certificates To Be Paid</u>
2024	\$550,000
2025	575,000
2026	610,000
2027	640,000
2028	675,000
2029	710,000
2030	745,000
2031	785,000
2032	830,000
2033	870,000

Notwithstanding the foregoing provisions of this subsection (c), in the event that some but not all of the Term Certificates have been prepaid pursuant to any of the preceding provisions of this Section 4.01, the aggregate principal amount of such Term Certificates to be

prepaid in each year thereafter pursuant to this subsection (c) shall be reduced by the aggregate principal amount of such Term Certificates so prepaid, to be allocated among sinking fund installments on a pro rata basis as directed by the City in integral multiples of \$5,000 such that the resulting amount of principal represented by such Term Certificates subject to prepayment on any date pursuant to this subsection (c) is equal to the aggregate principal components of the Lease Payments coming due and payable on such date.

SECTION 4.02. *Selection of Certificates for Prepayment.* Whenever provision is made in this Trust Agreement for the prepayment of Certificates and less than all Outstanding Certificates are called for prepayment, the Trustee shall select Certificates for prepayment among maturities designated by the City in any manner as directed by the City, and by lot within a maturity. For the purposes of such selection, Certificates shall be deemed to be composed of \$5,000 portions, and any such portion may be separately prepaid. The Trustee shall promptly notify the City and the Authority in writing of the Certificates or portions thereof so selected for prepayment.

SECTION 4.03. *Notice of Prepayment.* When prepayment is authorized or required pursuant to Section 4.01, the Trustee shall give notice of the prepayment of the Certificates on behalf and at the expense of the City. Such notice shall state the mailing date, the Trustee's name and address, the date of issue, the prepayment date and prepayment price and, if less than all of the then Outstanding Certificates are to be called for prepayment, shall designate the CUSIP numbers, the Certificate numbers, and the amounts of the Certificates to be prepaid by giving the individual number of each Certificate or by stating that all Certificates between two stated numbers, both inclusive, have been called for prepayment or by stating that all of the Certificates of one or more maturities have been called for prepayment, and shall require that such Certificates be surrendered on the prepayment date at the Office of the Trustee for prepayment at said prepayment price, giving notice also that further interest represented by the Certificates will not accrue from and after the prepayment date. Such notice shall further state that on the prepayment date there shall become due and payable, the principal and premium, if any, represented by each Certificate together with accrued interest represented thereby to said date, and that from and after such date interest represented thereby shall cease to accrue and be payable.

Notice of such prepayment shall be mailed by first class mail with postage prepaid, to one or more of the Information Services, and to the Owners of Certificates designated for prepayment at their respective addresses appearing on the Registration Books, at least thirty (30) days but not more than sixty (60) days prior to the prepayment date. Such notice shall, in addition to setting forth the above information, set forth, in the case of each Certificate called only in part, the portion of the principal represented thereby which is to be prepaid; *provided, however,* that neither failure to receive such notice so mailed nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of such Certificates or the cessation of accrual of interest represented thereby from and after the date fixed for prepayment.

SECTION 4.04. *Partial Prepayment of Certificates.* Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the Owner thereof, at the expense of the City, a new Certificate or Certificates of authorized denominations equal in aggregate principal amount to the unprepaid portion of the Certificate surrendered and of the same interest rate and the same maturity.

SECTION 4.05. *Effect of Notice of Prepayment.* Moneys for the prepayment (including the interest to the applicable date of prepayment) of Certificates having been set aside in the Lease Payment Fund shall become due and payable on the date of such prepayment, and, upon presentation and surrender thereof at the Principal Office of the Trustee, said Certificates shall

be paid at the unpaid principal amount (or applicable portion thereof) represented thereby plus interest accrued and unpaid to said date of prepayment.

If, on said date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest represented thereby to said date of prepayment, shall be held by the Trustee so as to be available therefor on such date of prepayment, then, from and after said date of prepayment, interest represented by the Certificates shall cease to accrue and become payable. All moneys held by the Trustee for the prepayment of Certificates shall be held in trust for the account of the Owners of the Certificates so to be prepaid, and shall be held by the Trustee in cash uninvested.

All Certificates paid at maturity or prepaid prior to maturity pursuant to the provisions of this Article III shall be cancelled upon surrender thereof and destroyed in accordance with the Trustee's retention policy then in effect.

Section 4.06. *Purchase of Certificates.* In lieu of prepayment of Certificates as provided in this Article IV, amounts held by the Trustee for such prepayment shall, at the written request of the City Representative, at least ninety (90) days before the date of prepayment of the Certificates be applied by the Trustee to the purchase of Certificates at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the City may in its discretion direct, but not to exceed the prepayment price which would be payable if such Certificates were prepaid. The aggregate principal amount of Certificates of the same maturity purchased in lieu of prepayment pursuant to this Section 4.06 shall not exceed the aggregate principal amount of Certificates of such maturity which would otherwise be subject to such prepayment.

ARTICLE V

LEASE PAYMENTS; LEASE PAYMENT FUND

SECTION 5.01. *Assignment of Rights in Lease.* The Authority has, in the Assignment Agreement, transferred, assigned and set over to the Trustee certain of its rights in the Lease, including but not limited to all of the Authority's rights to receive and collect all of the Lease Payments and all other amounts required to be deposited in the Lease Payment Fund pursuant to the Lease or pursuant hereto. All Lease Payments and such other amounts to which the Authority may at any time be entitled shall be paid directly to the Trustee, and all of the Lease Payments collected or received by the Authority shall be deemed to be held and to have been collected or received by the Authority as the agent of the Trustee, and if received by the Authority at any time shall be deposited by the Authority with the Trustee within one Business Day after the receipt thereof, and all such Lease Payments and such other amounts shall be forthwith deposited by the Trustee upon the receipt thereof in the Lease Payment Fund.

SECTION 5.02. *Establishment of Lease Payment Fund.* The Trustee shall establish a special fund designated as the "Lease Payment Fund." All moneys at any time deposited by the Trustee in the Lease Payment Fund shall be held by the Trustee in trust for the benefit of the City and the Owners of the Certificates. So long as any Certificates are Outstanding, neither the City nor the Authority shall have any beneficial right or interest in the Lease Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

SECTION 5.03. *Deposits.* There shall be deposited in the Lease Payment Fund all Lease Payments received by the Trustee (except as provided in Section 3.04), including any moneys received by the Trustee for deposit therein pursuant to Sections 4.01(a) or 5.01 or pursuant to Article VI hereof, or Article IX of the Lease, and any other moneys required to be deposited therein pursuant to the Lease or pursuant to this Trust Agreement.

SECTION 5.04. *Application of Moneys.* All amounts in the Lease Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal, interest and prepayment premiums (if any) represented by the Certificates as the same shall become due and payable, in accordance with the provisions hereof. In the event insufficient amounts are available in the Lease Payment Fund or otherwise to pay interest and principal with respect to the Certificates when due, such shortfall shall be allocated between the Series 2003A Certificates and the Taxable Series 2003B Certificates proportionately based on the amount of interest and principal due with respect to each such series of Certificates and, within each series, shall be allocated proportionately among maturities based on the amount of interest and principal due with respect to each such maturity.

SECTION 5.05. *Surplus.* Any surplus remaining in the Lease Payment Fund, after prepayment and payment of all Certificates, including premiums and accrued interest (if any) and payment of any applicable fees and expenses to the Trustee, or provision for such prepayment or payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

ARTICLE VI

INSURANCE AND CONDEMNATION FUND; APPLICATION OF
INSURANCE AND EMINENT DOMAIN PROCEEDS

SECTION 6.01. *Establishment of Insurance and Condemnation Fund; Application of Net Proceeds of Insurance Award.*

(a) Any Net Proceeds of insurance against accident to or destruction of any part of the Leased Premises collected by the City in the event of any such accident or destruction shall be paid to the Trustee by the City pursuant to Section 5.2(a) of the Lease and deposited by the Trustee promptly upon receipt thereof in a special fund to be established when deposits are required to be made therein and designated as the "Insurance and Condemnation Fund."

(b) Within forty-five (45) days following the date of such deposit, the City shall determine and notify the Trustee in writing of its determination either (i) that the replacement, repair, restoration, modification or improvement of the Leased Premises is not economically feasible or in the best interest of the City, or (ii) that all or a portion of such Net Proceeds are to be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Premises. Notwithstanding the foregoing, in the event that the Net Proceeds, together with other available funds then held by the Trustee for such purpose, are insufficient to prepay Certificates pursuant to Section 4.01(b) in an aggregate principal amount such that the Lease Payments which are payable following such prepayment will not be subject to abatement pursuant to Section 5.3 of the Lease, the City shall be obligated to apply such Net Proceeds to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Premises.

(c) In the event the City's determination is as set forth in clause (i) of paragraph (b) above, such Net Proceeds shall be promptly transferred by the Trustee to the Lease Payment Fund, for prepayment of Lease Payments pursuant to Section 9.3 of the Lease and applied to the prepayment of Certificates as provided in Section 4.01(b); *provided, however*, that in the event of damage or destruction of the Leased Premises in full, such Net Proceeds may be transferred to the Lease Payment Fund only if sufficient, together with other moneys available therefor, to cause the prepayment of the principal components of all unpaid Lease Payments allocable to the Leased Premises pursuant to Section 9.3 of the Lease; *provided further, however*, that in the event of damage or destruction of the Leased Premises in part, such Net Proceeds may be transferred to the Lease Payment Fund and applied to the prepayment of Lease Payments only if the resulting Lease Payments represent fair consideration for the remaining portions of the Leased Premises, evidenced by a certificate signed by a City Representative and an Authority Representative delivered to the Trustee.

(d) In the event the City's determination is as set forth in clause (ii) of paragraph (b) above, Net Proceeds deposited in the Insurance and Condemnation Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Premises by the City, and disbursed by the Trustee upon receipt of requisitions signed by a City Representative stating with respect to each payment to be made (i) the requisition number, (ii) the name and address of the person, firm or corporation to whom payment is due, (iii) the amount to be paid and (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation. The Trustee shall not be responsible for such requisitions and may conclusively rely thereon. Any balance of the Net Proceeds remaining after such work has been

completed and a certificate of completion has been delivered by the City to the Trustee, shall be paid to the City.

SECTION 6.02. *Application of Net Proceeds of Eminent Domain Award.* If all or any part of the Leased Premises shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited with the Trustee in the Insurance and Condemnation Fund pursuant to Section 5.2(b) of the Lease and shall be applied and disbursed by the Trustee as follows:

(a) If the City has given written notice to the Trustee of its determination, to be made within 45 days of the date of deposit, that (i) such eminent domain proceedings have not materially affected the operation of the Leased Premises or the ability of the City to meet any of its obligations with respect to the Leased Premises under the Lease, and (ii) such proceeds are not needed for repair or rehabilitation of the Leased Premises, the City shall so certify to the Trustee and the Trustee, at the City's written request, shall transfer such proceeds to the Lease Payment Fund for the prepayment of the Lease Payments pursuant to Section 9.3 of the Lease and applied to the prepayment of Certificates in the manner provided in Section 4.01(b).

(b) If the City has given written notice to the Trustee of its determination, to be made within 45 days of the date of deposit, that (i) such eminent domain proceedings have not materially affected the operation of the Leased Premises or the ability of the City to meet any of its obligations with respect to the Leased Premises under the Lease, and (ii) such proceeds are needed for repair, rehabilitation or replacement of the Leased Premises, the City shall so certify to the Trustee and the Trustee, at the City's written request, shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such repair or rehabilitation, upon the filing with the Trustee of requisitions of the City Representative in the form and containing the provisions set forth in Section 6.01.

(c) If (i) less than all of the Leased Premises shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City has given written notice to the Trustee of its determination that such eminent domain proceedings have materially affected the operation of the Leased Premises or the ability of the City to meet any of its obligations with respect to the Leased Premises under the Lease or (ii) all of the Leased Premises shall have been taken in such eminent domain proceedings, then the Trustee shall transfer such proceeds to the Lease Payment Fund to be applied to the prepayment of the Lease Payments pursuant to Section 9.3 of the Lease and applied to the prepayment of Certificates in the manner provided in 4.01(b).

(d) In making any determination under this Section 6.02, the City may, but shall not be required to, obtain at its expense, the report of an independent engineer or other independent professional consultant, a copy of which shall be sent to the Trustee. Any such determination by the City shall be final.

SECTION 6.03. *Cooperation.* The Authority and the Trustee shall cooperate fully with the City, at the expense of the City, in filing any proof of loss with respect to any insurance policy maintained pursuant to Article IV of the Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Leased Premises or any portion thereof. The Trustee shall not be obligated to join in such action if it believes it will be exposed to liability or has not been indemnified to its satisfaction from any loss, liability or expense including, but not limited to, attorneys fees.

ARTICLE VII

MONEYS IN FUND; INVESTMENT

SECTION 7.01. *Held in Trust.* The moneys and investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the Owners of the Certificates, in accordance with the terms hereof, and for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the Authority, the Trustee or the City or any Owner of Certificates, except as provided in this Trust Agreement.

SECTION 7.02. *Investments Authorized.*

(a) Moneys held by the Trustee hereunder shall, upon written directions of a City Representative at least two (2) Business Days prior to the making of an investment, be invested and reinvested by the Trustee in Permitted Investments held in the name of the Trustee. If a City Representative shall fail to so direct investments, the Trustee shall invest the affected moneys in Permitted Investments described in paragraphs (d) of the definition thereof. Such investments, if registrable, shall be registered in the name of and held by the Trustee or its nominee, as trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 7.02. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as principal or agent in the making or disposing of any investment.

(b) The Trustee may, in its sole discretion, commingle any of the funds held by it pursuant to this Trust Agreement into a separate fund or funds for investment purposes only, *provided, however*, that all funds or accounts held by the Trustee hereunder shall be accounted for separately notwithstanding such commingling by the Trustee.

SECTION 7.03. *Accounting.* The Trustee shall furnish to the City, at least monthly, an accounting which may be in the form of its customary accounting statements of all investments made by the Trustee. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Trust Agreement.

The Trustee or any of its affiliates may act as sponsor or advisor in connection with any Permitted Investments.

The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

SECTION 7.04. *Allocation of Earnings.* All income or profit on any investments of funds held by the Trustee under the Trust Agreement shall be deposited in the respective funds from which such investments were made. Amounts retained or deposited in the Lease Payment Fund shall be applied as a credit against the Lease Payment due by the City pursuant to the Lease on the Lease Payment Date following the date of deposit.

SECTION 7.05. *Acquisition, Disposition and Valuation of Investment.*

(a) Except as otherwise provided in subsection (b) of this Section 7.05, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Trust Agreement, or otherwise containing gross proceeds of the Certificates (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Trust Agreement or the Tax Code) at Fair Market Value; provided, however, the Trustee shall not be responsible to determine Fair Market Value.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of section 148 of the Tax Code), provided that the City shall inform the Trustee which funds are subject to a yield limitation; provided, however, the Trustee shall not be responsible to determine present value.

ARTICLE VIII

THE TRUSTEE

SECTION 8.01. *Appointment of Trustee.* Other than the Trustee initially appointed, which appointment is hereby confirmed, the Authority and the City agree that they will maintain a Trustee acceptable to the Insurer which shall have (or, in the case of a commercial bank with trust powers or a trust company included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least Seventy-Five Million Dollars (\$75,000,000), and subject to supervision or examination by federal or State authority, so long as any Certificates are Outstanding. If such commercial bank with trust powers or a trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 8.01, the combined capital and surplus of such commercial bank with trust powers or a trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 8.01, the Trustee shall resign immediately in the manner and with the effect specified in Section 8.04.

The Trustee is hereby authorized and directed, and the Trustee hereby agrees, to pay the Certificates when duly presented for payment, at maturity or on prepayment, and to cancel all Certificates upon payment thereof. The Trustee shall keep records in accordance with industry standards of all funds administered by it and of all Certificates paid and discharged. The Trustee shall have the right to create from time to time such accounts and subaccounts as it shall deem necessary or advisable to enable it to carry out its obligations hereunder. The Trustee shall be compensated by the City for its services rendered pursuant to the provisions of this Trust Agreement.

SECTION 8.02. *Acceptance of Trusts.* The Trustee hereby accepts the trusts imposed upon it by this Trust Agreement and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement against the Trustee. In case an Event of Default has occurred (which has not been cured or waived) the Trustee may exercise such of the rights and powers vested in it by this Trust Agreement and shall use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

No provision in this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

The Trustee shall not be responsible for any recital herein, in the Assignment Agreement or in the Certificates, or for any of the supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Certificates delivered hereunder or intended to be secured hereby and the Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority or the City under the Lease.

The Trustee shall not be accountable for the use of any Certificates delivered hereunder or the proceeds thereof. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Certificates secured hereby with the same rights which it would have if it were not the Trustee; may acquire and dispose of other bonds or evidence of indebtedness of the City with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in principal amount of the Certificates then Outstanding.

In the absence of bad faith on its part, the Trustee shall be protected in acting or refraining from acting upon any notice, request, consent, requisition, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and to have been signed or sent by the proper person or persons and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may, in the absence of bad faith on its part, accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements. The Trustee may consult with counsel, who may be counsel to the City, with regard to legal questions and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith in accordance therewith. Any action taken or omitted to be taken by the Trustee in good faith pursuant to this Trust Agreement upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Certificate, shall be conclusive and binding upon all future Owners of the same Certificate and upon Certificates executed and delivered in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Certificate or to take any action at his request unless such Certificate shall be deposited with the Trustee or satisfactory evidence of the ownership of such Certificate shall be furnished to the Trustee.

As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by a Authority Representative or a City Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been given notice or is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient but may, at its discretion, secure such further evidence deemed necessary or advisable but shall in no case be bound to secure the same. The Trustee may accept a certificate of an Authority Representative or a City Representative to the effect that an authorization in the form therein set forth has been adopted by the Authority or the City, as the case may be, as conclusive evidence that such authorization has been duly adopted, and is in full force and effect.

The permissive right of the Trustee to do things enumerated in this Trust Agreement shall not be construed as a duty. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents.

The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default except failure by the City to make any of the Lease Payments to the Trustee required to be made by the City pursuant to the Lease or failure by the Authority or the City to file with the Trustee any document required by this Trust Agreement or the Lease to be so filed subsequent to the delivery of the Certificates, unless the Trustee shall be specifically notified in writing of such default by the Authority, the City or by the Owners of at least five percent (5%) in aggregate principal amount of Certificates then Outstanding. All notices or other instruments required by this Trust Agreement to be delivered to the Trustee must, in order to be effective, be

delivered at the Principal Office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no Event of Default except as aforesaid.

The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

Notwithstanding anything elsewhere in this Trust Agreement with respect to the execution of any Certificates, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Trust Agreement, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition so that by the terms hereof required as a condition of such action, by the Trustee deemed desirable for the purpose of establishing the right of the City to the withdrawal of any cash, or the taking of any other action by the Trustee.

All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee shall have no liability for interest on any money received, except as may be agreed upon with the City.

The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in aggregate principal amount of the Outstanding Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Trust Agreement.

Before taking any action under Article XII or this Section 8.02 at the request or direction of the Certificate Owners or the Insurer, the Trustee may require that an indemnity bond or other indemnity satisfactory to the Trustee be furnished to the Trustee by the Certificate Owners for the reimbursement of all fees and expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken.

Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Certificates.

The Trustee shall not be accountable for the use or application by the City or the Authority or any other party of any funds which the Trustee has released in accordance with the terms of this Trust Agreement.

The Trustee makes no representation or warranty, express or implied, as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City or the Authority of the Leased Premises. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Lease or this Trust Agreement for the existence, furnishing or use of the Leased Premises.

The Trustee makes no representations as to the validity or sufficiency of the Certificates and shall incur no responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Certificates assigned to or imposed upon it. The Trustee shall not be responsible for the validity or sufficiency of the Lease or the assignment under the Assignment Agreement. The Trustee shall not be liable for the sufficiency or collection of any Lease Payments or other moneys required to be paid to it under the Lease (except as provided in this

Trust Agreement), its right to receive moneys pursuant to the Lease, or the value of or title to the premises upon which the Leased Premises is located or the Leased Premises. The Trustee makes no representations and shall have no responsibility for any official statement or other offering material prepared or distributed with respect to the Certificates.

In accepting the trust hereby created, the Trustee acts solely as Trustee for the Owners and not in its individual capacity and all persons, including without limitation the Owners and the City or the Authority, having any claim against the Trustee arising from this Trust Agreement shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

The Trustee shall not be personally liable, in case of entry by it or the Authority upon the Leased Premises, for debts contracted or liabilities or damages incurred in the management or operation of the Leased Premises by the Authority or it.

Whether or not therein expressly so provided, every provision of this Trust Agreement and the Assignment Agreement relating to the conduct or affecting the liability of the Trustee, shall be subject to the provisions of this Article VIII.

The Trustee shall not be under any duty to check or verify any financial or other statements or reports furnished pursuant to any provision hereof, or to check, verify or compare any of such statements or reports previously or subsequently furnished, and shall be under no other duty in respect to the same.

The Trustee is authorized and directed to execute in its capacity as Trustee hereunder the Assignment Agreement.

SECTION 8.03. *Fees, Charges and Expenses of Trustee.* The Trustee shall be entitled to (and the City shall pay to the Trustee) payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, if any, including interest on all such advances at its (or its banking affiliates) prime rate then in effect, plus two percent, counsel fees (including expenses), fees and expenses of independent appraisers, accountants, consultants, agents and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services, including but not limited to advances to any such fees and expenses and, in the Event of Default, the Trustee shall have a first and prior lien on the funds held hereunder to secure the same; *provided, however,* that in no event shall the Trustee have a lien on premiums paid in connection with an optional prepayment of Certificates. The Trustee's rights hereunder, including its rights under Section 11.03, shall survive its resignation or removal and final payment of the Certificates.

SECTION 8.04. *Removal of Trustee.* The City and the Authority may by written agreement between themselves, so long as no Event of Default shall have occurred and be continuing, or the Owners of a majority in aggregate principal amount of all Certificates Outstanding may by written request, at any time and for any reason, remove the Trustee and any successor thereto, and shall thereupon appoint a successor or successors thereto.

The Trustee may at any time resign by giving written notice to the City, the Insurer and the Authority and by giving to the Certificate Owners notice by mailing such notice to the registered owners of the Certificates. Upon receiving such notice of resignation, the City shall promptly, appoint a successor Trustee by an instrument in writing; *provided, however,* that in the event that the City has not appointed a successor Trustee who has accepted its appointment within thirty (30) days following receipt of such notice of resignation, the resigning Trustee may petition the appropriate court having jurisdiction to appoint a successor Trustee.

Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee.

SECTION 8.05. *Appointment of Agent.* The Trustee may appoint an agent to exercise any of the powers, rights or remedies granted to the Trustee under this Trust Agreement, and to hold title to property or to take any other action which may be desirable or necessary.

SECTION 8.06. *Merger or Consolidation.* Any company, corporation or association into which the Trustee may be merged or converted, or with which it may be consolidated, or any company, corporation or association resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business (provided that such company shall be eligible under Section 8.01) shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

SECTION 8.07. *Appointment of Successor Trustee.* In the event of the removal or resignation of the Trustee pursuant to this Article VIII, the City shall promptly appoint a successor Trustee acceptable to the Insurer. In the event the City shall, for any reason whatsoever, fail to appoint a successor Trustee within thirty (30) days following the delivery to the Trustee of the instrument described in Section 8.04 or within thirty (30) days following the receipt of notice by the City pursuant to Section 8.04, the Trustee may apply to a court of competent jurisdiction at the expense of the City for the appointment of a successor Trustee meeting the requirements of Section 8.01. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the City purporting to appoint a successor Trustee following the expiration of such thirty (30) day period.

SECTION 8.08. *Concerning any Successor Trustee.* Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also the Authority and the City an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the City, or of its successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Upon such acceptance, the City shall mail, or cause the mailing of, notice thereof to the Certificate Owners at their respective addresses set forth on the Registration Books. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article VIII, shall be filed or recorded by the successor Trustee in each recording office where the Assignment Agreement shall have been filed or recorded.

SECTION 8.09. *Rights Under Insurance Policy.*

Payments under the Insurance Policy shall be made in accordance with the following provisions, with which, the City and the Trustee agree to comply, so long as the Insurance Policy shall be in full force and effect.

(a) At least one (1) day prior to all Interest Payment Dates, the Trustee will determine whether there will be sufficient funds in the funds and accounts established

hereunder to pay the principal or interest with respect to the Certificates on such Interest Payment Date. If the Trustee determines that there will be insufficient funds in such funds or accounts, the Trustee shall so notify the Insurer. Such notice shall specify the amount of the anticipated deficiency, the Certificates to which such deficiency is applicable and whether such Certificates will be deficient as to principal or interest or both. If the Trustee has not so notified the Insurer at least one (1) day prior to an Interest Payment Date, the Insurer will make payments of principal or interest with respect to the Certificates on or before the first (1st) day next following the date on which the Insurer shall have received notice of nonpayment from the Trustee.

(b) The Trustee shall, after giving notice to the Insurer as provided in (a) above, make available to the Insurer and, at the Insurer's direction, to The Bank of New York, as insurance trustee for the Insurer or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Authority maintained by the Trustee and all records relating to the funds and accounts maintained under this Trust Agreement.

(c) The Trustee shall provide the Insurer and the Insurance Trustee with a list of registered owners of Certificates entitled to receive principal or interest payments from the Insurer under the terms of the Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Certificates entitled to receive full or partial interest payments from the Insurer and (ii) to pay principal upon Certificates surrendered to the Insurance Trustee by the registered owners of Certificates entitled to receive full or partial principal payments from the Insurer.

(d) The Trustee shall, at the time it provides notice to the Insurer pursuant to (a) above, notify registered owners of Certificates entitled to receive the payment of principal or interest thereon from the Insurer (i) as to the fact of such entitlement, (ii) that the Insurer will remit to them all or a part of the interest payments next coming due upon proof of Certificate Owner entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Insurer, they must surrender their Certificates (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Certificates to be registered in the name of the Insurer) for payment to the Insurance Trustee, and not the Trustee and (iv) that should they be entitled to receive partial payment of principal from the Insurer, they must surrender their Certificates for payment thereon first to the Trustee who shall note on such Certificates the portion of the principal paid by the Trustee and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee which will then pay the unpaid portion of principal.

(e) In the event that the Trustee has notice that any payment of principal of or interest on a Certificate which has become due for payment and which is made to a Certificate Owner by or on behalf of the Authority has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, promptly upon receiving such notice, notify the Insurer of such notice and notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from the Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Trustee shall furnish to the Insurer its records evidencing the payments of principal of and interest on the

Certificates which have been made by the Trustee and subsequently recovered from registered owners and the dates on which such payments were made.

(f) In addition to those rights granted the Insurer under this Trust Agreement, the Insurer shall, to the extent it makes payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note the Insurer's rights as subrogee on the registration books of the Authority maintained by the Trustee upon receipt from the Insurer of proof of the payment of interest thereon to the registered owners of the Certificates, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Insurer's rights as subrogee on the registration books of the Authority maintained by the Trustee upon surrender of the Bonds by the registered owners thereof together with proof of the payment of principal thereof.

SECTION 8.10. *Additional Provisions Relating to the Insurance Policy.*

(a) While the Insurance Policy is in effect, the City or the Trustee, as appropriate, shall furnish to the Insurer (to the attention of the Surveillance Department, unless otherwise indicated):

(i) as soon as practicable after the filing thereof, a copy of any financial statement of the Authority and a copy of any audit and annual report of the Authority;

(ii) such additional information it may reasonably request; and

(iii) a copy of any notice to be given to the registered owners of the Certificates, including, without limitation, notice of any redemption of or defeasance of Certificates, and any certificate rendered pursuant to this Trust Agreement relating to the security for the Certificates.

(b) To the extent that the City has entered into a continuing disclosure agreement with respect to the Certificates, the Insurer shall be included as party to be notified.

(c) The Trustee or Authority, as appropriate, shall notify the office of the General Counsel of the Insurer of any failure of the City to provide relevant notices, certificates, or filings.

(d) Notwithstanding any other provision of this Trust Agreement, the Trustee or the City, as appropriate, shall immediately notify the Insurer (including the General Counsel's office) if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any event of default hereunder.

(e) The City will permit the Insurer to discuss the affairs, finances and accounts of the City or any information the Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the Authority. The Trustee or Authority, as appropriate, will permit the Insurer to have access to the Leased Property and have access to and to make copies of all books and records relating to the Certificates at any reasonable time.

(f) The Insurer shall have the right to direct an accounting at the City's expense, and the City's failure to comply with such direction within thirty (30) days after receipt of written notice of the direction from the Insurer shall be deemed a default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any registered owner of the Certificates.

(g) Notwithstanding any other provision hereof, the Authority may not amend the Project Lease pursuant to the provisions of Section 2.3 or 2.4 thereof without the consent of the Insurer.

ARTICLE IX

MODIFICATION OR AMENDMENT OF TRUST AGREEMENT

SECTION 9.01. *Amendments Permitted.* This Trust Agreement and the rights and obligations of the Owners of the Certificates may be modified or amended at any time by a supplemental agreement which shall become effective when the written consents of the Insurer and of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 9.03, shall have been filed with the Trustee. No such modification or amendment shall (1) extend or have the effect of extending the fixed maturity of any Certificate or reducing the interest rate with respect thereto or extending the time of payment of interest, or reducing the amount of principal thereof or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, or (2) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Lease, or (3) modify any of the rights or obligations of the Trustee without its written assent thereto.

This Trust Agreement and the rights and obligations of the Owners of the Certificates may be modified or amended at any time by a supplemental agreement without the consent of any such Owners, but only to the extent permitted by law and only (1) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein or therein reserved to the City, (2) to cure, correct or supplement any ambiguous or defective provision contained herein or therein and which shall not adversely affect the interests of the Owners of the Certificates, (3) in regard to questions arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable, (4) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest with respect to the Series 2003A Certificates; (5) to the extent necessary to obtain a rating with respect to the Certificates from Moody or S&P, or both; (6) to substitute the Leased Premises in accordance with the provisions of the Lease; (7) to add to the rights of the Trustee; provided that no such amendment shall, in the opinion of Special Counsel delivered to the Authority, the City, the Insurer and the Trustee, materially adversely affect the interests of the Owners of the Certificates or shall impair the right of any Owner to receive, in any case, such Owner's fractional share of any Lease Payment in accordance with such Owner's Certificate. Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be.

SECTION 9.02. *Procedure for Amendment with Written Consent of Certificate Owners.* This Trust Agreement and the Lease may be amended by supplemental agreement as provided in this Section 9.02 in the event the consent of the Owners of the Certificates is required pursuant to Section 9.01. A copy of such supplemental agreement, together with a request to the Certificate Owners for their consent thereto, shall be mailed by the Trustee to the Insurer and to each Owner of a Certificate at the address as set forth on the Registration Books, but failure to receive copies of such supplemental agreement and request shall not affect the validity of the supplemental agreement when assented to as in this Section 9.02 provided.

Such supplemental agreement shall not become effective unless there shall be filed with the Trustee the written consents of the Insurer and of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 9.03) and a notice shall have been mailed as hereinafter provided in this Section 9.02. Each such consent shall be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.08. Any such consent shall be binding upon the Owner of the Certificate giving such

consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter provided in this Section 9.02 has been mailed. Any revocation received after such notice has been mailed shall be of no effect.

After the Owners of the required percentage of Certificates and the Insurer shall have filed their consents to such supplemental agreement, the Trustee shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section 9.02 for the mailing of such supplemental agreement of the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section 9.02 (but failure to receive copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section 9.02 to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Certificates at the expiration of sixty (60) days after such mailing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty (60) day period.

SECTION 9.03. *Disqualified Certificates.* Certificates owned or held by or for the account of the City or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with the City (except any Certificates held in any pension or retirement fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Trust Agreement, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Trust Agreement.

SECTION 9.04. *Effect of Supplemental Agreement.* From and after the time any supplemental agreement becomes effective pursuant to this Article IX, this Trust Agreement or the Lease, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Certificates Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement or the Lease, as the case may be, for any and all purposes.

The Trustee may require each Certificate Owner, before their consent provided for in this Article IX shall be deemed effective, to reveal whether the Certificates as to which such consent is given are disqualified as provided in Section 9.03.

SECTION 9.05. *Endorsement or Replacement of Certificates Delivered After Amendments.* The Trustee may determine that Certificates delivered after the effective date of any action taken as provided in this Article IX shall bear a notation, by endorsement or otherwise, in form approved by the Trustee, as to such action. In that case, upon demand on the Owner of any Certificate Outstanding at such effective date and presentation of his Certificate for the purpose at the Principal Office of the Trustee, a suitable notation shall be made on such Certificate. The Trustee may determine that the delivery of substitute Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Certificate Owners' action, which substitute Certificates shall thereupon be prepared, executed and delivered. In that case, upon demand on the Owner of any Certificate then Outstanding, such substitute Certificate shall be exchanged at the Principal Office of the Trustee, without

cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Outstanding Certificate.

SECTION 9.06. *Amendatory Endorsement of Certificates.* The provisions of this Article IX shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him.

ARTICLE X
COVENANTS

SECTION 10.01. *Compliance With and Enforcement of Lease.* The City covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease. The Authority covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease.

The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for cancellation or termination of the Lease by the Authority thereunder. The Authority and the City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting their respective estates, or either of them, in the Leased Premises, which may or can in any manner affect such estate of the City, will deliver the same, or a copy thereof, to the Insurer and to the Trustee.

SECTION 10.02. *Observance of Laws and Regulations.* The City will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, including its right to exist and carry on business as a chartered city, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

SECTION 10.03. *Prosecution and Defense of Suits.* The Authority and the City shall promptly, upon request of the Trustee, the Insurer or any Certificate Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Leased Premises, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee and every Certificate Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

SECTION 10.04. *Recordation and Filing.* The City shall record and file, or cause to be recorded and filed, the Site Lease, the Lease (or a memorandum thereof), the Assignment Agreement and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

SECTION 10.05. *Further Assurances.* The Authority and the City will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement and the Lease, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

SECTION 10.06. *Continuing Disclosure.* The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Trust Agreement, failure of the City to comply with

the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Trustee, at the request of any Participating Underwriter the holders of at least 25% aggregate principal amount of Outstanding Bonds, shall, to the extent indemnified to its satisfaction, or any holder or beneficial owner of the Certificates may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

SECTION 10.07. *Satisfaction of Conditions Precedent.* The City hereby certifies, recites and declares that all acts, conditions and things required by the constitution and statutes of the State of California, the Lease and this Trust Agreement to exist, to have happened and to have been performed precedent to and in the delivery of the Certificates, do exist, have happened and have been performed in due time, form and manner as required by law.

SECTION 10.08. *Cooperation With the Insurer.* The City and the Authority shall permit the Insurer to discuss the affairs, finances and accounts of the City, the Authority, or any other information which the Insurer may reasonably request regarding the security for the Certificates, with appropriate officers of the Authority, and the City. The City shall permit the Insurer to have access to the Leased Premises and to have access to and make copies of all books and records relating to the Leased Premises and the Certificates at any reasonable time. The Insurer shall have the right to direct an accounting at the City's expense, and the City's failure to comply with such direction within thirty (30) days after receipt of written notice of such direction shall be deemed an Event of Default hereunder. So long as the Insurance Policy remains in effect, the City, the Authority and the Trustee shall furnish to the Insurer such additional information as it may reasonably request.

ARTICLE XI

LIMITATION OF LIABILITY

SECTION 11.01. *Limited Liability of City.* Except for the payment of Lease Payments and Additional Payments when due in accordance with the Lease and the performance of the other covenants and agreements of the City contained in the Lease and this Trust Agreement, the City shall have no pecuniary obligation or liability to any of the other parties or to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owners by the Trustee, except as expressly set forth herein.

SECTION 11.02. *No Liability for Trustee Performance.* Neither the City, the Insurer nor the Authority shall have any obligation or liability to any of the other parties or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

SECTION 11.03. *Indemnification.* The City agrees to indemnify and save the Trustee, its officers, employees, directors and agents, harmless from and against all claims, suits and actions brought against them, or any of them, or to which they, or any of them, are made a party, and from all losses and damages suffered by them as a result thereof, including, but not limited to, attorneys fees and expenses, including where and to the extent such claim, suit or action arises out of the actions of any party to this Trust Agreement including but not limited to the ownership, operation or use of the Leased Premises by the City. Such indemnification shall not extend to claims, suits and actions brought against the Trustee arising out of any such party's negligence or willful misconduct. In the event the City is required to indemnify the Trustee, as herein provided, the City shall be subrogated to the rights of the Trustee to recover such losses or damages from any other person or entity. The obligations of the City under this paragraph shall survive the discharge of the Trust Agreement and the Certificates and the resignation or removal of the Trustee under this Trust Agreement.

SECTION 11.04. *Limitation of Rights to Parties and Certificate Owners.* Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the City, the Authority, the Insurer, the Trustee, and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the City, the Authority, the Insurer, the Trustee and said Owners.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

SECTION 12.01. *Assignment of Rights.* Pursuant to the Assignment Agreement the Authority has transferred, assigned and set over to the Trustee all of the Authority's rights in and to the Lease (excepting only the Authority's rights under Sections 4.8, 5.10, 6.3 and 8.4 thereof), including without limitation all of the Authority's rights to exercise such rights and remedies conferred on the Authority pursuant to the Lease as may be necessary or convenient (i) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund, and (ii) otherwise to exercise the Authority's rights and take any action to protect the interests of the Trustee or the Certificate Owners in an Event of Default.

SECTION 12.02. *Remedies.* Subject to the Insurer's written direction, if an Event of Default shall happen, then and in each and every such case during the continuance of such Event of Default, the Trustee may, and to the extent indemnified to its satisfaction upon request of the Owners as provided in Section 8.2 of the Lease shall, exercise any and all remedies available pursuant to law or granted pursuant to the Lease; *provided, however,* that notwithstanding anything herein or in the Lease to the contrary, there shall be no right under any circumstances to accelerate the maturities of the Certificates.

SECTION 12.03. *Application of Funds.* All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article XII or Article VIII of the Lease or otherwise shall be applied by the Trustee in the order following upon presentation of the several Certificates, and the execution and delivery of new Certificates if only partially paid, or upon the surrender thereof if fully paid -

First, to the payment of the fees, costs and expenses of the Trustee, the Insurer and of the Certificate Owners in declaring such Event of Default (although the Trustee shall have no claim to amounts for the payment of premiums upon an optional prepayment), including reasonable compensation to its or their agents, attorneys and counsel; and

Second, to the payment of the whole amount then owing and unpaid with respect to the Certificates for principal and interest, with interest on the overdue principal and installments of interest at a rate per annum equal to the rate then payable with respect to the Certificates to the extent permitted by law (but such interest on overdue installments of interest shall be paid only to the extent funds are available therefor following payment of principal and interest and interest on overdue principal, as aforesaid), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

SECTION 12.04. *Institution of Legal Proceedings.* If one or more Events of Default shall happen and be continuing, the Trustee, with the prior written consent of the Insurer, in its discretion may, and upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, with the prior written consent of the Insurer, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action at law, either for the specific

performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder.

SECTION 12.05. *Non-waiver.* Nothing in this Article XII or in any other provision of this Trust Agreement or in the Certificates, shall affect or impair the obligation of the City to pay or prepay the Lease Payments in accordance with and subject to the terms and provisions of the Lease, or affect or impair the right of action, which is also absolute and unconditional, of the Certificate Owners to institute suit to enforce and collect such payment. No delay or omission of the Trustee, the Insurer or of any Owner of any of the Certificates to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XII to the Trustee, the Insurer or to the Owners of Certificates may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Certificate Owners.

SECTION 12.06. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Trustee or to the Certificate Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

SECTION 12.07. *Power of Trustee to Control Proceedings.* Subject to the Insurer's prior written direction, in the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Certificates then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; *provided, however,* that the Trustee shall not discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, without the consent of a majority in aggregate principal amount of the Certificates Outstanding.

SECTION 12.08. *Limitation on Certificate Owners' Right to Sue.* No Owner of any Certificate executed and delivered hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of at least twenty-five percent (25%) in aggregate principal amount of all the Certificates then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee reasonable indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Certificates of any remedy hereunder; it being understood and intended that no one or more Owners of Certificates shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

The right of any Owner of any Certificate to receive payment of said Owner's proportionate interest in the Lease Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section 12.08 or any other provision of this Trust Agreement.

SECTION 12.09. *Rights of the Insurer.* Anything in this Trust Agreement to the contrary notwithstanding, upon the occurrence and continuation of an Event of Default, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted hereunder to the Certificate Owners, or to the Trustee with respect to such Events of Default for the benefit of the Certificate Owners, including but not limited to, the right to approve all waivers of any Events of Default. The rights granted to the Insurer shall be deemed terminated and shall not be exercisable by the Insurer during any period during which the Insurer shall be in default under the Insurance Policy.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.01. *Defeasance.* If and when all Outstanding Certificates shall be paid and discharged in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and prepayment premiums (if any) with respect to all Certificates Outstanding, as and when the same become due and payable; or

(b) by depositing with the Trustee, under an escrow deposit and trust agreement, security for the payment of Lease Payments as more particularly described in Section 9.1 of the Lease, said security to be held by the Trustee to be applied by the Trustee to pay or prepay the Lease Payments as the same become due, pursuant to Section 9.1 of the Lease,

notwithstanding that any Certificates shall not have been surrendered for payment, all obligations of the Authority, the Trustee and the City with respect to all Outstanding Certificates shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid, from Lease Payments paid by or on behalf of the City from funds deposited pursuant to paragraph (b) of this Section 13.01, to the Owners of the Certificates not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraph (b), the Certificates shall continue to represent direct and proportionate interests of the Owners thereof in Lease Payments under the Lease.

Any funds held by the Trustee, at the time of one of the events described in paragraphs (a) or (b) of this Section 13.01, which are not required for the payment to be made to Owners or for any outstanding fees and expenses of the Trustee, shall be paid over to the City.

Notwithstanding the foregoing provisions of this Section 13.01, in the event that the principal of and interest and prepayment premium with respect to the Certificates, shall be paid by the Insurer pursuant to the Insurance Policy, the obligations of the Trustee and the City shall continue in full force and effect and the Insurer shall be fully subrogated to the rights of all Owners of the Certificates so paid.

SECTION 13.02. *Records.* The Trustee shall keep complete and accurate records of all moneys received and disbursed by it under this Trust Agreement, which shall be available for inspection by the City, the Authority and any Owner, or the agent of any of them, at any time during regular business hours with reasonable prior notice.

SECTION 13.03. *Notices.*

(a) All written notices to be given under this Trust Agreement shall be given by mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received upon actual receipt:

If to the City: City of Stockton
22 E. Weber Avenue, Room 350
Stockton, California 95202
Attention: Director, Housing & Redevelopment
Fax: (209) 937-8822

and City of Stockton
425 North El Dorado Street
Stockton, California 95202
Attention: City Manager
Fax: (209) 937-8447

with copy to: Office of the City Attorney
425 North El Dorado Street
Stockton, California 95202
Fax: (209) 937-8898

If to the Authority: Stockton Public Financing Authority
425 North El Dorado Street
Stockton, California 95202
Attention: Secretary
Fax: (209) 937-8447

If to the Trustee: Wells Fargo Bank, National Association
555 Montgomery Street, 10th Floor
MAC -A0167-102
San Francisco, California 94111
Attention: Corporate Trust Department
Fax: (415) 395-9064

If to the Insurer: Ambac Assurance Corporation
One State Street Plaza
New York, New York 10004
Attention: Surveillance Department and General Counsel's
Office
Fax: (212) 208-3384

If to Rating Agency: Standard & Poor's Ratings Services
55 Water Street, 38th Fl.
New York, New York 10041
Fax: (212) 438-2000

So long as the Insurance Policy remains in effect, the Trustee shall furnish to the Insurer a copy of any notice required to be given hereunder by it to the Certificate Owners and any certification required to be given hereunder by it relating to the security for the Certificates.

SECTION 13.04. *[Reserved]*.

SECTION 13.05. *Parties Interested Herein*. Nothing in this Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Authority, the Trustee, and the Certificate Owners, any right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Trust Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Authority, the Insurer, the Trustee and the Certificate Owners.

SECTION 13.06. *Governing Law*. This Trust Agreement shall be construed and governed in accordance with the laws of the State.

SECTION 13.07. *Binding Effect; Successors*. This Trust Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Trust Agreement either the Authority, the Insurer, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Trust Agreement contained by or on behalf of the Authority, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 13.08. *Execution in Counterparts*. This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

SECTION 13.09. *Destruction of Canceled Certificates*. Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trustee and the delivery to the City of any Certificates, the Trustee may, in lieu of such cancellation and delivery, destroy such Certificates as may be allowed by law and deliver a certificate of such destruction to the City, unless otherwise requested by the City Representative.

SECTION 13.10. *Unclaimed Moneys.* Notwithstanding any provisions of this Trust Agreement, any moneys held by the Trustee in trust for the payment of the principal or prepayment price, or interest with respect to, any Certificates appertaining thereto and remaining unclaimed for one (1) year after the date such principal or prepayment price or interest with respect to any of the Certificates become due and payable (whether at maturity or upon call for prepayment as provided in this Trust Agreement), if such moneys were so held at such date, or two (2) years after the date of deposit of such moneys if deposited after said date when the principal or prepayment price, or interest with respect to any of the Certificates became due and payable, shall be repaid to the City, free from the trusts created by this Trust Agreement, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the City as aforesaid, the Trustee shall (at the cost of the City) first mail to the Owners of any Certificate which have not been paid at the addresses shown on the Registration Books maintained by the Trustee, a notice, in such form as may be deemed appropriate by the Trustee, with respect to the Certificates so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

SECTION 13.11. *Waiver of Notice.* Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 13.12. *Severability of Invalid Provisions.* In case any one or more of the provisions contained in this Trust Agreement or in the Certificates shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

SECTION 13.13. *Consent of the Insurer.* The Insurer shall be deemed to be the Owner of all Certificates insured under the Insurance Policy for the following purposes and provided that the Insurer is not on default under the terms of the Insurance Policy, during the following times hereunder: (a) at all times for the purpose of the execution and delivery of a supplemental agreement relating to any amendment, change or modification of this Trust Agreement pursuant to Article IX; (b) at all times with respect to the initiation by the Certificate Owners of any action to be taken hereunder by the Trustee at the request of such Certificate Owners, which under this Trust Agreement requires the written approval or consent of or permits initiation by the Owners of a specified principal amount of Certificates then Outstanding; and (c) following the occurrence of an Event of Default for all other purposes.

SECTION 13.14. *Insurer as Third-Party Beneficiary.* To the extent this Trust Agreement confers upon or gives to the Insurer any right, remedy or claim under or by reason of this Trust Agreement, the Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date and year first above written.

ATTEST

By Katherine Gong Meissner
Katherine Gong Meissner
City Clerk



CITY OF STOCKTON

By Mark Lewis, Esq.
Mark Lewis, Esq.,
City Manager

By Katherine Gong Meissner
Katherine Gong Meissner,
Authority Secretary

STOCKTON PUBLIC FINANCING
AUTHORITY

By Mark Lewis, Esq.
Mark Lewis, Esq.
Executive Director

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By Interim City Attorney
Interim City Attorney

By 130 Anne
Counsel for Authority

WELLS FARGO BANK,
NATIONAL ASSOCIATION, *as Trustee*

By: Anne M. Zieminski
Anne M. Zieminski
Assistant Vice President

EXHIBIT A

DEFINITIONS

"Additional Payments" means the payments required to be made pursuant to and as described in Section 3.7 of the Lease.

"Agency" means the Redevelopment Agency of the City of Stockton, a public body corporate and politic, organized and existing under the laws of the State.

"Assignment Agreement" means the Assignment Agreement, dated as of June 1, 2003, by and between the Authority and the Trustee, together with any duly authorized and executed amendments thereto.

"Authorized Denomination" means the amount of \$5,000 or any integral multiple thereof.

"Authority" means the Stockton Public Financing Authority, a joint exercise of powers authority organized and existing under the laws of the State.

"Authority Representative" means the Chairman, the Executive Director, the Assistant Executive Director or any other person authorized by resolution of the Board of Directors of the Authority to act on behalf of the Authority under or with respect to the Trust Agreement, the Site Lease, the Lease, and the Assignment Agreement.

"Business Day" means a day other than a Saturday, a Sunday or a day on which banks in the city in which the principal office of the Trustee is located are authorized or obligated by law or executive order to close.

"Certificates" means, collectively, the Series 2003A Certificates and the Taxable Series 2003B Certificates.

"City" means the City of Stockton, a municipal corporation organized and chartered city existing under and by virtue of the constitution and laws of the State.

"City Representative" means the Mayor, City Manager, the Assistant City Manager or any other person authorized by resolution of the City Council to act on behalf of the City under or with respect to the Trust Agreement, the Lease, the Site Lease.

"Closing Date" means the date upon which there is physical delivery of the Certificates in exchange for the amount representing the purchase price of the Certificates by the Original Purchaser.

"Completion Date" means the date of completion of the Project as evidenced by the filing with the Trustee of a certificate to the effect that the Project has been completed.

"Continuing Disclosure Certificate" shall mean that certain Continuing Disclosure Certificate executed by the City and dated the date of execution and delivery of the Certificates, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the Authority or the City and related to the authorization, execution, sale and delivery of the Certificates, including but not limited to costs of preparation and reproduction of documents, printing expenses, filing and recording fees, initial fees and charges of the Trustee, legal fees and charges, fees and disbursements of the Trustee, consultants and professionals, rating agency fees, title insurance premiums, fees and charges for preparation, execution and safekeeping of the Certificates and any other cost, charge or fee in connection with the original execution and delivery of the Certificates.

"Costs of Issuance Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.02 of the Trust Agreement.

"Event of Default" means an event of default under the Lease, as defined in Section 8.1 of the Lease.

"Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

"Federal Securities" means direct general obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.

"Fiscal Year" means the twelve-month period beginning on July 1 of each year and ending on the next succeeding June 30, both dates inclusive, or any other twelve-month period hereafter selected and designated as the official fiscal year period of the City.

"Information Services" means Financial Information, Inc.'s "Daily Called Bond Service", 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Mergent/FIS, Inc. 5250 77 Center Drive, Suite 150, Charlotte, North Carolina 28217, Attn: Called Bond Dept.; Kenny S&P, 55 Water Street, 45th Floor, New York, New York 10041, Attention: Notification Department; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the City may designate in a Written Request of the City delivered to the Trustee.

"Insurance and Condemnation Fund" means the fund by that name established and held by the Trustee pursuant to Section 6.01 of the Trust Agreement.

"Insurance Policy" means the financial guaranty insurance policy issued by the Insurer insuring the payment when due of the principal of and interest with respect to the Certificates as provided therein.

"Insurer" means Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company, and its successors and assigns, as issuer of the Insurance Policy.

"Interest Payment Date" means with respect to any Certificate, each March 1 and September 1, commencing March 1, 2004, to and including the date of maturity or prepayment of such Certificate.

"Lease Agreement" means the Lease Agreement, dated as of June 1, 2003, by and between the Authority, as sublessor, and the City, as sublessee, together with any duly authorized and executed amendments thereto.

"Lease Payment Date" means the fifteenth (15th) calendar day of the month preceding each Interest Payment Date.

"Lease Payment Fund" means the fund by that name established and held by the Trustee pursuant to Section 5.02 of the Trust Agreement.

"Lease Payments" means all payments required to be paid by the City pursuant to Section 3.4 of the Lease, including any prepayment thereof pursuant to Article IX of the Lease.

"Leased Premises" means the land and facilities all as more particularly described in Exhibit A attached to the Lease, together with all buildings and facilities at any time situated thereon. From and after the date of any substitution pursuant to Section 2.3 of the Lease, the term "Leased Premises" shall mean all buildings, facilities, improvements and equipment which are substituted pursuant to Section 2.3 of the Lease.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall for any reason no longer perform the function of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized rating agency designated by the City with the approval of the Insurer.

"Net Proceeds" means any insurance proceeds or condemnation award, paid with respect to the Leased Premises, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

"Original Purchaser" means Stone and Youngberg LLC., as the first purchaser of the Certificates.

"Outstanding," when used with reference to the Certificates and as of any particular date, means all Certificates theretofore delivered except: (a) any Certificate canceled by the Trustee or surrendered for cancellation at or before said date, (b) Certificates for the payment or prepayment of which funds or eligible securities in the necessary amount, including accrued interest represented thereby, shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or prepayment date of such Certificates), provided that, if such Certificates are to be prepaid prior to maturity, notice shall have been given as provided in Section 4.03 of the Trust Agreement or provision satisfactory to the Trustee shall have been made for the giving of such notice, and (c) any Certificate in lieu of, in substitution for or in exchange for which another Certificate shall have been delivered pursuant to the Trust Agreement.

"Owner" when used with respect to a Certificate means the person in whose name the ownership of such Certificate shall be registered on the Registration Books.

"Participating Underwriter" shall have the meaning ascribed thereto in the Continuing Disclosure Certificate.

"Permitted Encumbrances" means, as of any particular time: (i) the Site Lease, the Lease and the Assignment Agreement; (ii) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may, pursuant to provisions of the Lease, permit to remain unpaid; (iii) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law, provided that either the City or the Authority diligently proceeds to remove such right or claim of record; and (iv) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which the City certifies in writing will not materially impair the use of the Leased Premises or to which the Authority and the City consent in writing.

"Permitted Investments" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein, and are in accordance with the investment policy of the City, provided that the same are of appropriate maturity and acquired at Fair Market Value:

(a) Federal Securities;

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (i) certificates of beneficial ownership of the Farmers Home Administration; (ii) Federal Housing Administration debentures; (iii) participation certificates of the General Services Administration; (iv) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of the Government National Mortgage Association; (v) guaranteed Title XI financings of the U.S. Maritime Administration; and (vi) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development;

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities only as stripped by the agency itself): (i) senior debt obligations of the Federal Home Loan Bank System; (ii) participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation; (iii) mortgaged-backed securities and senior debt obligations of the Federal National Mortgage Association; (iv) senior debt obligations of the Student Loan Marketing Association; (v) obligations of the Resolution Funding Corporation; and (vi) consolidated system-wide bonds and notes of the Farm Credit System.

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAm-G, AAAm or AAm, or a rating by Moody's of Aaa, Aa1 or Aa2 (such funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory or other management services);

(e) Certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral described in (a) or (b) above, which have a maturity not greater than one (1) year from the date of investment and which are issued by commercial banks, savings and loan associations or mutual savings banks, which

collateral must be held by a third party and provided that the Trustee must have a perfected first security interest in such collateral;

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by FDIC;

(g) Investment agreements, including but not limited to guaranteed investment contracts and reserve fund put agreements, acceptable to the Insurer;

(h) Commercial paper rated, at the time of purchase, "Prime-1" by Moody's or "A-1" and better by S&P;

(i) Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(j) Federal funds or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's and A-1+ by S&P;

(k) Other investments which are permitted in writing by the Insurer; and

(l) the Local Agency Investment Fund of the State, created pursuant to Section 11429.1 of the California Government Code, except that respect to funds invested by the Trustee, only to the extent any monies invested by the Trustee are subject to deposit and withdrawal solely by the Trustee.

"Principal Office" means, with respect to the Trustee, the office of the Trustee in San Francisco, California, or additional offices as may be specified in writing to the Authority, and the City by the Trustee, or such other office designated by the Trustee.

"Project" means the City's assistance of the Agency in undertaking various redevelopment housing projects of benefit to the Agency's several redevelopment project areas with the proceeds of the Certificates deposited into the Project Fund.

"Project Costs" means all costs of the Project, including but not limited to, grants, architect and engineering fees, construction contractor payments, costs of feasibility and other reports, inspection costs, performance bond premiums, permit fees and capitalized interest with respect to the Certificates.

"Project Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.03 of the Trust Agreement through March 1, 2006.

"Qualified Reserve Fund Credit Instrument" means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company and deposited with the Trustee pursuant to Section 3.04, provided that all of the following requirements are met: (a) the long-term credit rating of such bank or insurance company is in the highest rating category by Moody's and S&P; (b) such letter of credit or surety bond has a term of at least twelve (12) months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released pursuant to Section 3.04; and (d) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Lease Payment Fund for the purpose of making payments required pursuant to Section 3.04.

"Rating Agency" means, as of any date, (a) Moody's, if Moody's then maintains a rating on the Certificates, and (b) S&P, if S&P then maintains a rating on the Certificates.

"Rating Category" means any generic rating category of a Rating Agency, without regard to any refinement of such category by plus or minus sign or by numerical or other qualifying designation.

"Record Date" means with respect to any Interest Payment Date except a payment of defaulted interest, the date which is the fifteenth (15th) day of the calendar month preceding each Interest Payment Date.

"Redevelopment Projects" means the Agency's several redevelopment projects.

"Registration Books" means the records maintained by the Trustee pursuant to Section 2.09 of the Trust Agreement for registration and transfer of ownership of the Certificates.

"Rental Period" means each period commencing on September 1 in each year during the Term of this Lease and ending on the next succeeding August 31, both dates inclusive; except that the first Rental Period for the Leased Premises shall be the period commencing on the date of recordation of this Lease and ending on the next succeeding August 31.

"Reserve Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.04 of the Trust Agreement.

"Reserve Requirement" means as of any date of calculation the least of (1) maximum annual debt service on the Outstanding Certificates; (b) 125% of average annual debt service; or (c) ten percent (10%) of the total amount of the proceeds of the Certificates deposited under the Trust Agreement.

"S&P" means Standard & Poor's Ratings Services, a Division of the McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and their assigns, and, if such corporation shall for any reason no longer perform the function of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized rating agency designated by the City.

"Securities Depositories" means The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax (516) 227-4039 or 4190; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a Written Request of the City delivered to the Trustee.

"Series 2003A Account" means the account by that name within the Project Fund.

"Series 2003A Certificates" means the \$1,160,000 aggregate principal amount of Certificates of Participation (Redevelopment Housing Projects) Series 2003A executed and delivered pursuant to the Trust Agreement.

"Site Lease" means the Site and Facility Lease, dated as of June 1, 2003, by and between the City, as lessor, and the Authority, as lessee, together with any duly authorized and executed amendments thereto.

"Special Counsel" means an attorney or a firm of attorneys, acceptable to the City, of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on

bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

"State" means the State of California.

"Tax Code" means the Internal Revenue Tax Code of 1986 as in effect on the Closing Date or (except as otherwise referenced in the Lease or the Trust Agreement) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

"Tax Increment Revenues" means all taxes allocated to, and paid into a special fund of the Agency for the Redevelopment Projects pursuant to Article 6 of Chapter 6 of the Law and Section 16 of Article XVI of the Constitution of the State of California, and as provided in the redevelopment plans for the Redevelopment Projects, including all payments and reimbursements, if any, to the Agency specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations.

"Taxable Series 2003B Account" means the account by that name within the Project Fund.

"Taxable Series 2003B Certificates" means the \$12,140,000 aggregate principal amount of City of Stockton Certificates of Participation (Redevelopment Housing Projects) Taxable Series 2003B executed and delivered pursuant to the Trust Agreement.

"Term of the Lease" means the time during which the Lease is in effect, as provided in the Lease.

"Trust Agreement" means the Trust Agreement, dated as of June 1, 2003, by and among the City, the Authority and the Trustee, together with any amendments or supplements hereto permitted to be made thereunder.

"Trustee" means Wells Fargo Bank, National Association, a national banking association duly organized and existing under the laws of the United States of America, or its successor and assigns under the provisions of the Trust Agreement.

"Written Certificate" or "Written Request" of the City mean, respectively, a certificate or request executed by a City Representative.

EXHIBIT B

FORM OF CERTIFICATE OF PARTICIPATION

No. R-

\$_____

CITY OF STOCKTON
CERTIFICATE OF PARTICIPATION
(REDEVELOPMENT HOUSING PROJECTS)
[TAXABLE] SERIES 2003[A/B]
Evidencing the Direct, Undivided Fractional Interest of the
Owner Hereof in Lease Payments to be Made by the
CITY OF STOCKTON
to the
STOCKTON PUBLIC FINANCING AUTHORITY

RATE OF INTEREST MATURITY DATE DATED DATE CUSIP
_____ % September 1, 20__ June 1, 2003

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: *** Dollars***

THIS IS TO CERTIFY THAT the Registered Owner identified above, or registered assigns, as the registered owner (the "Registered Owner") of this Certificate of Participation (the "Certificate") is the owner of a direct, undivided fractional interest in lease payments (the "Lease Payments") payable under the Lease Agreement dated as of June 1, 2003 (the "Lease") by and between the STOCKTON PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority, duly organized and existing under the laws of the State of California (the "Authority"), as sublessor, and the CITY OF STOCKTON, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), as sublessee, with respect to certain land and existing improvements which are used for the municipal purposes of the City (the "Leased Premises"). The Lease Payments and certain other rights and interests under the Lease have been assigned to Wells Fargo Bank, National Association as trustee (the "Trustee"), having a corporate trust office in the locations described in the Trust Agreement referred to below.

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Lease, on the Maturity Date identified above, or any earlier prepayment date, the Principal Amount identified above representing a direct, undivided fractional share of the portion of the Lease Payments designated as principal, and to receive on each March 1 and September 1, commencing March 1, 2004 (the "Interest Payment Dates") until payment in full of said principal, the Registered Owner's direct, undivided fractional share of the Lease Payments designated as interest coming due during the interest period immediately preceding each of the Interest Payment Dates. Interest represented hereby shall be payable from the Interest Payment Date next preceding the date of execution of this Certificate unless (a) this Certificate is executed after the close of business on the fifteenth (15th) day of the month immediately preceding an Interest Payment Date (a "Record Date") and on or before such Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (b) unless

this Certificate is executed on or before February 15, 2004, in which event interest shall be payable from the Dated Date identified above. The Registered Owner's share of the portion of the Lease Payments designated as interest is the result of the multiplication of the aforesaid share of the portion of the Lease Payments designated as principal by the Rate of Interest per annum identified above, calculated on the basis of a 360-day year comprised of twelve 30-day months. Principal represented hereby is payable in lawful money of the United States of America upon surrender hereof at the office of the Trustee in San Francisco, California, and interest represented hereby is payable by check mailed by first class mail by the Trustee on each Interest Payment Date to the Registered Owner at such Owner's address as it appears on the registration books of the Trustee as of the preceding Record Date; *provided, however*, that at the written request of the Registered Owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, interest represented by such Certificates shall be paid on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account within the United States of America as shall be specified in such written request.

This Certificate has been executed and delivered by the Trustee pursuant to the terms of a Trust Agreement by and among the Trustee, the Authority and the City, dated as of June 1, 2003 (the "Trust Agreement"). The City has certified that it is authorized to enter into the Lease and the Trust Agreement under the laws of the State of California, for the purpose of paying and reimbursing the payment of the costs of certain public capital improvements. Reference is hereby made to the Lease and the Trust Agreement (copies of which are on file at the office of the Trustee) for a description of the terms on which the Certificates are delivered, the rights thereunder of the owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Lease, to all of the provisions of the Lease and the Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The City is obligated under the Lease to pay the Lease Payments for the Leased Premises from any source of available funds, subject to certain exceptions as set forth in the Lease. As more fully described in the Lease, the Lease Payments are subject to abatement during any period in which by reason of damage or destruction to the Leased Premises in whole or in part, or by reason of eminent domain proceedings with respect to the Leased Premises in whole or in part, there is substantial interference with the use and occupancy by the City of the Leased Premises or any portion thereof; such abatement shall be in an amount agreed upon by the City and the Authority such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining portions of the Leased Premises. The obligation of the City to pay the Lease Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay the Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Certificates maturing on or before September 1, 20__, are not subject to optional prepayment prior to the respective stated maturities. The Certificates maturing on or after September 1, 20__, are subject to optional prepayment in whole, or in part, among maturities in the manner directed by the City and by lot within a maturity, on any date, on or after September 1, 20__, from prepayments of the Lease Payments made at the option of the City pursuant to the Lease, at a prepayment price (expressed as a percentage of the principal amount to be prepaid), as set forth in the following table together with accrued interest represented thereby to the date fixed for prepayment.

<u>Prepayment Dates</u>	<u>Prepayment Price</u>
September 1, 20__ through August 31, 20__	102%
September 1, 20__ through August 31, 20__	101%
September 1, 20__ and thereafter	100%

The Certificates are subject to mandatory prepayment on any date, in whole, or in part, among maturities in the manner directed by the City and by lot within a maturity, from the net proceeds of insurance or eminent domain proceedings with respect to the Leased Premises, which are credited towards the prepayment of the Lease Payments pursuant to the Lease, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

The Term Certificates maturing on September 1, 20__ are also subject to mandatory sinking fund Payment by lot on September 1 in each year beginning on September 1, 20__, from the principal components of the Lease Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the Payment date, without premium, as follows:

Term Certificates Maturing September 1, 20__

<u>Prepayment Date</u> <u>(September 1)</u>	<u>Principal Amount of</u> <u>Term Certificates</u> <u>To Be Paid</u>
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As provided in the Trust Agreement, notice of prepayment shall be mailed by the Trustee by first class mail, postage prepaid, not less than thirty (30) nor more than sixty (60) days before the prepayment date, to the registered owners of the Certificates to be prepaid, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment or the cessation of accrual of interest represented thereby. If this Certificate is called for prepayment and payment is duly provided herefor as specified in the Trust Agreement, interest represented hereby shall cease to accrue from and after the date fixed for prepayment.

This Certificate is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of authorized denomination or denominations, representing the same aggregate principal amount and representing the same rate of interest and maturity date, will be delivered to the transferee in exchange herefor. The City, the Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, whether or not this

Certificate shall be overdue, and the City, the Authority and the Trustee shall not be affected by any notice to the contrary.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal amount of the Certificates then outstanding, and may be amended without such consent under certain circumstances; provided that no such amendment shall extend the fixed maturity of any Certificate or reduce the interest or principal represented thereby, without the express consent of the owner of such Certificate.

The Trustee has no obligation or liability to the registered owners of the Certificates to make payments of principal, premium, if any, or interest with respect to the Certificates except from amounts on deposit for such purposes with the Trustee. The Trustee's sole obligations are to administer for the benefit of the registered owners of the Certificates the various funds and accounts established under the Trust Agreement and to perform the other duties expressly imposed upon it under the Trust Agreement.

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation ("DTC") to the City or the Trustee for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

The City has certified, recited and declared that all things, conditions and acts required by the laws of the State of California, the Lease and the Trust Agreement to exist, to have happened and to have been performed precedent to and in the delivery of the Certificates, do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by Wells Fargo Bank, National Association, as trustee, acting pursuant to the Trust Agreement.

Execution Date: June __, 2003

WELLS FARGO BANK, NATIONAL
ASSOCIATION,
as Trustee

By: _____
Authorized Signatory

STATEMENT OF INSURANCE

Financial Guaranty Insurance Policy No. _____ (the "Policy") with respect to payments due for principal and interest with respect to this certificate has been issued by Ambac Assurance Corporation ("Ambac Assurance"). The Policy has been delivered to The Bank of New York, New York, New York, as the Insurance Trustee under said Policy and will be held by such Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee and a copy thereof may be secured from Ambac Assurance or the Insurance Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this certificate acknowledges and consents to the subrogation rights of Ambac Assurance as more fully set forth in the Policy.

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within registered Certificate and hereby irrevocably constitute(s) and appoint(s) attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor.

Note: The signature(s) on this Assignment must correspond with the name (s) as written on the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

Exhibit B

Wells Fargo Bank, N.A.
Corporate Trust Services
Special Account Services
625 Marquette Avenue
Minneapolis, MN 55479
612-667-5047 Fax



February 26, 2013

**NOTICE OF SETTLEMENT AND PROCEDURES CONCERNING
COURT APPROVAL OF SETTLEMENT AND RELATED DEADLINES**

\$1,160,000 City of Stockton Certificates of Participation,
(Redevelopment Housing Projects)
Series 2003A

\$12,140,000 City of Stockton Certificates of Participation,
(Redevelopment Housing Projects)
Taxable Series 2003B

CUSIP NUMBERS¹

BASE CUSIP: 861407

BM5 BN3 BP8 BQ6 BR4 BS2 BT0 BU7
BV5 BW3 BX1 BY9 BZ6 CA0 CB8 CC6 CD4

Please forward this Notice to beneficial holders.

THIS NOTICE IS TO NOTIFY CERTIFICATE HOLDERS REGARDING A PENDING SETTLEMENT BETWEEN THE CITY, THE AUTHORITY, THE INSURER AND THE TRUSTEE AND VERY IMPORTANT DEADLINES RELATING TO THE SETTLEMENT, INCLUDING DEADLINES FOR HOLDERS TO OBJECT TO THE PROPOSED TERMS OF THAT SETTLEMENT.

Wells Fargo Bank, National Association serves as trustee ("Trustee") for beneficial holders (the "Holders") of the above-referenced Certificates of Participation (the "Certificates") which were issued pursuant to a certain Trust Agreement dated as of June 1, 2003 (the "Trust Agreement") among the City of Stockton (the "City"), the Stockton Public Financing Authority (the "Authority") and the Trustee. The Certificates evidence direct, undivided fractional interests of the Holders thereof in Lease Payments made by the City for use and occupancy of certain real property and improvements, consisting of the City's police station, a library and three fire stations under a Lease Agreement dated as of June 1, 2003 (the "Lease Agreement") between the City and the Authority. Pursuant to that certain Assignment Agreement dated as of June 1, 2003 (as may have been amended from time to time, the "Assignment Agreement"), the Authority, among other things, assigned the Trustee the benefit of holders of the Certificates, substantially all of the Authority's right, title and interest in and to the Lease, including its right to receive the Lease Payments due under the Lease. Payment of principal and interest on the Certificates are insured by a certain Financial Guaranty Insurance Policy Number 21154BE with an effective date of June 27, 2003 (as it may be amended from time to time, the "Insurance Policy") issued

¹ No representation is made as to the correctness of the CUSIP numbers, which are included solely for the convenience of the holders of the Bonds.

Case (12-32118) Filed 02/26/13 Doc 726
by Ambac Assurance Corporation (the "Insurer"). Terms capitalized but not defined herein shall have the meanings ascribed thereto in the Trust Agreement or Lease, as applicable.

As disclosed in previous notices, the City filed a voluntary petition for relief under chapter 9 of title 11 of the United States Code (the "Bankruptcy Code") on June 28, 2012, thereby commencing Bankruptcy Case No. 12-32118 (the "Bankruptcy Case") before the United States Bankruptcy Court for the Eastern District of California (the "Bankruptcy Court").

The bankruptcy petition and other related documents filed in these cases are available on the Bankruptcy Court's website <http://www.caeb.uscourts.gov/> or at the Bankruptcy Court clerk's office at the following address:

Clerk of United States Bankruptcy Court
United States Bankruptcy Court – Eastern District of California
501 I Street, Suite 3-200
Sacramento, California 95814
(916) 930-4400

The City is in default under the Lease pursuant to Sections 8.1(b) and (d) of the Lease. Pursuant to Section 12.09 of the Trust Agreement, so long as the Insurer is not in default under its Insurance Policy, the Insurer shall control and direct the enforcement of all rights and remedies granted to the Owners of the Certificates and the Trustee under the Trust Agreement and pursuant to Section 13.13 of the Trust Agreement, following an Event of Default, the Insurer shall be deemed the Owner of all Certificates for certain purposes under Trust Agreement.

PROPOSED SETTLEMENT

The City, the Authority and the Insurer have been engaged in settlement discussions regarding a consensual resolution of potential disputes between and among the City, the Authority and the Insurer arising out of or related to the Lease, Trust Agreement, and the Insurance Policy. On February 26, 2013, the City, the Authority and the Insurer reached agreement on the terms of a proposed settlement agreement. The Insurer, in exercise of its rights under the Trust Agreement, has directed the Trustee to enter into a certain Stipulation and Settlement Agreement and a Supplemental Trust Agreement which effect the terms of the settlement (the "Settlement"). Once approved by the Bankruptcy Court and executed by the parties, the terms of the Settlement will be binding on all Holders of the Certificates and their respective successors and assigns, the Trustee, the Insurer, the City and the Authority.

Documents associated with the Settlement, including the Stipulation and Settlement Agreement, the Supplemental Trust Agreement, the motion to approve the Stipulation and Settlement Agreement (the "Settlement Motion") and the proposed form of order and related findings of fact and conclusions of law (the "Settlement Order" and collectively with the Stipulation and Settlement Agreement, the Supplemental Trust Agreement, the Settlement Motion, and any other documents required thereby, the "Settlement Documents") are attached hereto as Exhibit A. The Settlement Documents may also be obtained from the Bankruptcy Court clerk's office, the Bankruptcy Court website or upon request from the Trustee and its counsel identified below.

On the effective date of the Settlement, counsel to the City will deliver a no adverse effect opinion with respect to the interest portion of the Lease Payments in the form attached to the Stipulation and Settlement Agreement (a copy of which is attached hereto).

Nothing in the Settlement is intended to modify the obligations of the Insurer under the Insurance Policy to pay principal and interest on the Certificates as they become due and as long as the Insurer continues to honor its obligations under the Insurance Policy, Holders will receive such payments. However, in the event the Insurer is in default under the Insurance Policy in the future, the Settlement may affect Holders' rights, including but not limited to recovery under the Certificates.

- **Lease Payments under Lease.** In lieu of Lease Payments required under the Lease Agreement, the City shall pay from its general fund, the amounts set forth in Schedule 1 to the Stipulation and Settlement Agreement (the "General Fund Payments"), subject to certain credits for amounts on deposit in the Reserve Fund and certain Housing Set-Aside Amounts.

- **Reserve Fund.** Commencing September 1, 2013, amounts on deposit in the Reserve Fund as of the Effective Date (as defined in the Stipulation and Settlement Agreement) of the Settlement shall be used to make payments of principal and interest on the Certificates to the extent Housing Set-Aside Amounts (as defined in the Stipulation and Settlement Agreement) are not available therefore.

- **Reimbursement Agreement and Housing Set-Aside Amounts.** The City shall assign its right, title and interest in the Reimbursement Agreement, including rights to receive the Housing Set-Aside Amounts, to the Trustee. The Trustee shall apply such amounts in accordance with the terms of the Supplemental Trust Agreement which, among other things, provides that until amounts on the deposit in the Reserve Fund are exhausted, all such amount shall be applied to pay principal of and interest on the Certificates and thereafter, a portion of the Housing Set-Aside Amount equal to 19.5% of the scheduled principal of and interest due on the Certificates shall be used to pay the scheduled payments on the Certificates. Any excess Housing Set-Aside Amounts shall be applied in the following order of priority: to reimburse the Insurer for any payments made on the Certificates, to reimburse the Insurer and the Trustee for fees and expenses incurred by the Insurer or the Trustee, pro rata, to the Reserve Fund to replenish the amount therein to the Reserve Requirement and as a credit against the General Fund Payment owed by the City under the terms of the Settlement, and finally to the City as reimbursement for the General Fund Payments or for deposit in the Redevelopment Property Tax Trust Fund.

- **Obligations of Insurer under Insurance Policy.** To the extent that the General Fund Payments, amounts available from the Reserve Fund and portions of the Housing Set-Aside Amounts are insufficient to pay principal of and interest on the Certificates, the Insurer will remain obligated under the Insurance Policy to fund any such deficiency.

- **Subrogation Rights of Insurer.** The Trust Agreement and the Insurance Policy will be amended to provide that without the need for any further action on the part of the Insurer, the Insurer shall, to the extent it makes payment of principal of or interest on the Certificates, become subrogated to the rights of the Holders of such Certificates to the extent of the payments so made under the Insurance Policy and Holders shall be deemed to have acknowledged and agreed, that without the need for any further action on the part of any owner of the Certificates, the Trustee shall have the right to (a) execute any assignment required by the Insurer in connection with any payments by the Insurer under the Insurance Policy in accordance with the terms of this Trust Agreement, and (b) accept any amendment to or replacement of the Insurance Policy necessary to insure the timely payment of debt service on the Certificates.

The City and the Insurer reserve the right to terminate the Stipulation and Settlement Agreement if a Settlement Order is not approved by the Bankruptcy Court on or prior to July 1, 2013. Furthermore, the Insurer reserves its rights to terminate the Settlement in the event the City fails to comply with the terms

of the Settlement or is in default under the Lease (other than with respect to the payment of the Lease Payment) and may direct the Trustee thereafter to exercise its rights and remedies under the Trust Agreement and Lease.

The foregoing is a summary of the principal terms of the Settlement and should not be considered a substitute for a careful and thorough reading of the Settlement Documents. Questions concerning the Settlement can be directed to counsel to the Trustee, Mr. Kannel or Ms. Walker (their contact information appears below).

COURT APPROVAL PROCESS / OBJECTION PROCEDURES

Before the Settlement becomes effective, certain conditions must be met, including the entry of the Settlement Order by the Bankruptcy Court and such Settlement Order shall have become final.

The Settlement Motion was filed with the Bankruptcy Court on February 26, 2013. The Settlement Motion can only be considered after parties in interest including Certificate Holders are given an opportunity to object to the Settlement. Objections, including any obligations of Certificate Holders to the Settlement and the relief sought therein must be made in writing and filed with the Bankruptcy Court and served so as to be actually received **by no later than March 19, 2013**, as more fully set forth in the attached Notice of City of Stockton’s Motion Under Bankruptcy Rule 9019 for Approval of Its Settlement with Ambac Assurance Corporation. The Settlement Documents and Bankruptcy Rules impose specific requirements as to the form, filing and service for such responses. In the unlikely event the deadline for objections changes, the Trustee will issue an additional notice to Holders.

A hearing on the Settlement Motion has been scheduled for **April 2, 2013 at 9:30 a.m.** by the Honorable Christopher M. Klein, Chief United States Bankruptcy Judge, in Courtroom C of the United States Courthouse, 501 I Street, Sacramento, California 95814. Parties objecting the Settlement must also appear at the hearing on the Settlement Motion. In the unlikely event the hearing date changes, the Trustee will issue an additional notice to Holders.

The Settlement Order presented in connection with the hearing to approve the Settlement will request, among other terms, findings of fact and rulings of law that (i) all parties in interest, including the Holders of the Certificates, have received adequate notice of and an opportunity to object to the Settlement, (ii) nothing contained in the Settlement is intended to modify in any way the Insurer’s obligation to pay principal of and interest on the Certificates when due pursuant to the Insurance Policy, (iii) the Trustee is compelled to enter into the Settlement, at the direction of the Insurer, as provided for under the Trust Agreement, (iv) the terms of the Settlement are fair and reasonable to, and are in the best interest of the Authority, the City and the creditors of the City, including the Insurer, the Trustee and the Holders of the Certificates, (v) the terms of the Settlement shall be binding on the Authority, the City and the creditors of the City, including the Insurer, the Trustee and the Holders of the Certificates and each of their respective successors and assigns and (vi) without the need for any further action on the part of any Certificate Holder and for the benefit of the Certificate Holders in order to insure the timely scheduled payment of debt service on the Certificates, the Trustee is granted the right and power to (a) execute any assignment required by the Insurer in connection with any payments by the Insurer under the Insurance Policy in accordance with the terms of the Trust Agreement, and (b) accept any amendment to or replacement of the Insurance Policy necessary to insure the timely payment of debt service on the Certificates.

Holders should review the Settlement Documents and are encouraged to discuss these materials with counsel of their choosing. For so long as the Insurer continues to honor its obligations under the Insurance Policy, Holders will receive payments of principal and interest on the Certificates as they become due. However, in the event the Insurer is in default under the Insurance Policy, the Settlement

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will affect your rights, including but not limited to the right to object to the Settlement in the future. If you do not object prior to the deadline, you may waive your right to object to the Settlement in the future.

RETENTION OF COUNSEL

As is reflected in prior notices, the Trustee has retained the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. and specifically William Kannel and Adrienne Walker of that firm to assist it in matters relevant to the Bonds. Mr. Kannel's phone number is 617-348-1665 and his email is wkannel@mintz.com. Ms. Walker's phone number is 617-348-1612 and her email is awalker@mintz.com.

FUTURE COMMUNICATIONS; ADDITIONAL MATTERS

Holders with questions regarding this notice may contact counsel to the Trustee using the information identified above, and may also contact the Trustee as follows:

Wells Fargo Bank, National Association
Corporate Trust Department – Attn: Gavin Wilkinson
MAC# N9311-115
625 Marquette Avenue, 11th Floor
Minneapolis, MN 55479
Email: gavin.wilkinson@wellsfargo.com

The Trustee may conclude that a specific response to particular inquiries from individual holders is not consistent with equal and full dissemination of information to all holders. Holders should not rely on the Trustee as their sole source of information. The Trustee makes no recommendations and gives no investment or tax advice and Holders are advised to consult their own tax advisors.

WELLS FARGO BANK, NATIONAL ASSOCIATION,
As Trustee